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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Turks and Caicos Islands

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Information was transmitted by the administering Power on 21 December 2012. Further details are contained in previous working papers posted on the United Nations website www.un.org/en/decolonization/workingpapers.shtml.

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The Territory at a glance

Territory: The Turks and Caicos Islands is a Non-Self-Governing Territory under the Charter administered by the United Kingdom of Great Britain and Northern Ireland.

Representative of administering Power: Governor Damian Roderic "Ric" Todd (September 2011).

Geography: The Territory comprises 40 islands and cays, and lies 145 km north of Haiti and the Dominican Republic and 925 km south-east of Miami, Florida, United States of America. Six islands are permanently inhabited: Grand Turk, where the capital is located; Providenciales, the business and tourist centre with the great majority of the population; North, Middle and South Caicos; and Salt Cay.

Land area: 948.2 km².

Exclusive economic zone: 154,068 km².[a]

Population: 31,458 (2012 census), comprising 42.5 per cent citizens or "belongers" and 57.5 per cent of "non-belongers" from the region, North America and Europe.

Language: English.

Capital: Cockburn Town.

Head of territorial Government: Dr. Rufus Ewing (November 2012).

Main political parties: Progressive National Party, People's Democratic Movement.

Elections: Last: 9 November 2012; next: 2016.

Legislature: House of Assembly.

Gross domestic product (GDP) per capita: $16,405 (2011 estimate).

Economy: Tourism, financial services, construction.

Unemployment rate: 8.3 per cent (2011 estimate).

Monetary unit: United States dollar.

Brief history: The first inhabitants of the islands were the Arawaken-speaking Taino people. In 1799, they were annexed by Britain as part of the Bahamas and subsequently Jamaica. They became a separate colony of the United Kingdom in 1962, when Jamaica achieved independence, although there were close constitutional ties with the Bahamas. When the Bahamas later became independent, in 1973, the Turks and Caicos Islands were given a Governor to replace their Administrator.

[a] EEZ data from "Sea Around Us" Project, a collaboration between the University of British Columbia and the Pew Environment Group. Available from www.seaaroundus.org.

I. Constitutional, legal and political issues

1. Under the 2006 Constitution negotiated between the Territory and the United Kingdom, the Turks and Caicos Islands operated until the suspension of the Constitution in August 2009 (see below) on the basis of a ministerial system of Government. The Governor appointed by the British Crown was responsible for external affairs, defence, internal security, including the police force, and some public service matters. The legislature consisted of the British Crown and a House of Assembly, comprising a Speaker, 15 elected members, 4 appointed members and the Attorney General. Ten members are elected to represent one electoral district each, and the remaining five by territory-wide vote.

2. In the light of the accumulation of evidence fortified by the findings of a commission of inquiry, which identified a high probability of systemic corruption in the government and the legislature and among public officers in the Territory, on 14 August 2009 the United Kingdom brought into force legislation that, inter alia, suspended parts of the 2006 Constitution, removing the ministerial government and the House of Assembly.

3. Between August 2009 and November 2012, the Governor worked under the interim constitutional arrangements with an advisory council to advise him on policy and a consultative forum to allow the people's voice to be heard. Each was constituted by Islanders and its members were appointed by the Governor. This arrangement was referred to as the "interim Government" and "interim administration" or as "direct rule". (See A/AC.109/2010/10, A/AC.109/2011/10 and A/AC.109/2012/9.) According to the administering Power, during the three years of the interim administration, led by the Governor and supported by the United Kingdom Government, a wide-ranging reform programme was implemented, including setting public finances on the road to recovery, establishing a robust framework for good governance, strengthening the public service, and bringing into force a new constitution.

4. The 2011 Turks and Caicos Islands Constitution Order, which came into force on 15 October 2012, sets out fundamental rights and freedoms of the individual and provisions for their enforcement. It provides for a Governor as the Head of the Turks and Caicos Islands Government, for a House of Assembly composed of elected and appointed members and the Attorney General, for a Cabinet and for ministers appointed from among the elected or appointed members of the House. It also provides for the judiciary, the public service and a number of institutions protecting good governance, notably an Integrity Commission, a Human Rights Commission, an Auditor General and a Director of Public Prosecutions. Provision is also made regarding Crown land and for public financial management, including the independent audit of public accounts. Under the 2011 Constitution Order, the British Crown reserves the power, with the advice and consent of the Privy Council, to make laws for the peace, order and good government of the Territory.

5. According to media reports in 2012, controversy persisted among Islanders, with some arguing that the text of the new Constitution was drafted and made by the United Kingdom with only suggestions from unelected individuals hailing from the Territory and was not put to a vote or referendum.

6. According to the administering Power, on 9 November 2012, elections were held within the prescribed 30-day limit from the day of the 2011 Constitution Order

coming into force. A new electoral register of electors was compiled on the basis of a registration exercise for all Islanders. An electoral boundaries commission defined 10 new electoral districts with broadly similar numbers of electors. Practical preparations were made for elections at 17 polling stations across the Territory's main islands. The Commonwealth Parliamentary Association organized an observer mission with participation from Gibraltar, countries from the Caribbean region and the United Kingdom. There was an 84 per cent turnout of voters. The Progressive National Party (PNP), in office when the ministerial government was removed in 2009, won 8 seats and the People's Democratic Movement (PDM) won 7 seats. Dr. Rufus Ewing, leader of the PNP, was sworn in as Premier on 13 November 2012. The Territory featured its first-ever female opposition leader, Sharlene Cartwright Robinson, head of the PDM. However, according to media reports, following petitions challenging the election results that led to an evenly split House, in February 2013 the Governor announced that a by-election would be held for the Cheshire Hill and Richmond Hill District on 22 March 2013.

7. The law of the Territory consists mainly of locally enacted statutes, along with some laws enacted in the United Kingdom and English common law and the rules of equity. The court system includes magistrates courts, the Supreme Court and the Court of Appeal, with ultimate recourse to the Judicial Committee of the Privy Council. On the advice of a judicial service commission, the Governor appoints judges and magistrates. The British Overseas Territories Act 2002 provides for the granting of British citizenship to "British Overseas Territory citizens". In response to what he described in January 2013 "as unsupported and preposterous accusations on the Turks and Caicos Islands judicial and legal system", the Attorney General announced that consideration would be given to proceedings for contempt of court or scandalizing the judiciary. According to observers, charges included concerns with regard to fair trial processes, access to an impartial justice system, conduct of criminal prosecutions, and interviewing techniques (see also the crime and public safety section below).

8. Addressing the Special Committee in June 2012, a petitioner from the Turks and Caicos Forum called on the administering Power to provide an explanation of its "assault" on the human rights of the people of the Territory and of its "attempts to delay their progress towards self-determination", and compensation for the economic losses sustained under the interim administration (see A/AC.109/2012/SR.9). In October 2012, a petitioner addressing the Special Political and Decolonization Committee (Fourth Committee) stated that the United Nations trusteeship system should be reinstated to oversee the Territory. A second petitioner said, in support of the trusteeship proposal made by the previous speaker, that the United Kingdom was enforcing a "pernicious form of colonialism" under which it had failed to establish democratic checks on the power of the British Governor, had imposed unconstitutional control over Island finances that would continue even after the return of elected government and generally showed an utter disregard for democracy.

9. An assessment by Oxford Analytica late in 2012 noted that the Territory faced a number of challenges, including a slowly improving but still vulnerable economy; the forthcoming trials of those individuals accused of corruption; and a possible move towards independence, which the PNP would support.

II. Budget

10. According to the administering Power, the Turks and Caicos Islands Government remains committed to achieving a fiscal surplus in the financial year ending March 2013, in line with the approved 2012/13 budget. Significant challenges remain and continuing tight cost control will be required to deliver the budgeted revenue surplus. The 2012/13 budget statement comprised approximately $162 million for recurrent and $17.2 million for capital expenditures.

11. The territorial Government levies no taxes on corporate or personal income, capital gains or inheritance. Following various consultations amid growing controversy, in 2012 the Acting Governor signed into law the Turks and Caicos Islands Value-Added Tax (VAT) Bill to take effect on 1 April 2013 as an 11 per cent levy, with a number of exemptions, including fruit, vegetables, fresh meat and hurricane supplies. On 1 February 2013, the House of Assembly repealed the controversial VAT legislation by a vote of 16 in support and 2 against.

12. According to the administering Power, the territorial Government continues to seek treaty partners for tax information exchange agreements. As previously reported, phase 1 of the Organization for Economic Cooperation and Development Peer Review Process by the Global Forum on Transparency and Exchange of Information for Tax Purposes was undertaken during 2011. The phase II assessment is scheduled to commence during 2013.

III. Economic conditions

A. General

13. The main sectors of the economy are tourism and financial services. According to an Economist Intelligence Unit estimate, the Territory's 2012 gross domestic product (GDP) was about $792.8 million. According to information provided by the administering Power, tourism is the Territory's top industry, where foreign investors, mainly from Canada, the United Kingdom and the United States play a significant role.

B. Tourism

14. In 2011 visitor arrivals to the Islands increased by 12.3 per cent over the previous year, totalling 1,009,720. The arrivals for stay-over visitors saw an increase of 20 per cent, totalling approximately 354,200 visitors. There were approximately 655,500 cruise arrivals, a 6 per cent increase. The destination continues to draw tourists mainly from the United States and Canada. The Tourist Board expects the Canadian market to grow in 2012 as the result of the addition of a new in-season direct flight from Halifax, Nova Scotia.

15. As previously reported, the Tourist Board embarked in 2011 on a strategy to encourage visits to the Territory's various islands, including through tours on North and Middle Caicos, and local flights to Grand Turk and Salt Cay. In 2011, a new private airline was licensed to operate in the Territory. The vast majority of tourists continue to be accommodated at resorts on Providenciales.

C. Financial services

16. Financial services, including company registration, trust business and insurance, are a source of external revenue. According to the United Kingdom, the financial services sector is centred on the United States automobile industry reinsurance.

17. There are seven commercial banks in the Territory, three of which are Canadian, namely, the Canadian Imperial Bank of Commerce, Scotiabank and Royal Bank. The licensing, supervision and development of the financial services in the Territory is entrusted to the Turks and Caicos Islands Financial Services Commission, which also provides a centralized service for registering companies, partnerships, trademarks and patents in the Territory. The Turks and Caicos Islands is a jurisdiction where foreign corporations pay licence fees to operate.

D. Agriculture and fisheries

18. In 2012, agriculture and fishing contributed approximately 1 per cent of the Territory's GDP. Agricultural production is limited by the lack of freshwater and consists mainly of the growing of vegetables and citrus fruits on the Caicos Islands. According to the administering Power, there are 15 full-time and 80 part-time farmers in the Territory. Pig and chicken farming is increasing. Two large pig farms in active production are indigenously owned operations.

19. Fishing is the Territory's main productive primary sector. Caribbean spiny lobster and queen conch are the primary marine exports. Other marine products, such as fin fish, are fished primarily for subsistence and the local restaurant trade.

E. Communications and construction

20. According to an assessment provided by the administering Power, transport and communications facilities are of fairly good quality. The road network covers about 120 km, with 24 km of paved roads on Grand Turk, Providenciales and the Caicos Islands.

21. The Turks and Caicos Islands has three international airports: the main one on Providenciales, and smaller ones on Grand Turk and South Caicos. There are also landing strips on Salt Cay, Pine Cay, Parrot Cay, Middle Caicos and North Caicos. Flights are available to a number of United States and Canadian cities, and London. Air Turks and Caicos operates services to the Bahamas, the Dominican Republic, Haiti and Jamaica. The 2011 extension of the runway of the Providenciales international airport was the first phase of a major airport expansion project designed to promote economic development.

22. The main commercial port of South Dock is situated on Providenciales. Grand Turk also has a commercial port, and North Caicos has a deep-water port.

23. Three telecommunications companies provide domestic and international telephone services in the Territory. There are a handful of cable television channels on Grand Turk, over two dozen channels on Providenciales, and six radio stations. There are no daily newspapers. A number of weekly papers also maintain a Web presence.

IV. Social conditions

A. General

24. The August 2012 preliminary census report issued by the Department of Economics Planning and Statistics noted that of the total population of 31,458, 16,037 were male and 15,421 were female. Approximately 73.7 per cent of the total population were over 18 years of age.

25. According to the administering Power, a number of families are considered to be living in poverty. An ongoing country poverty assessment is expected to help establish priorities to assist the poor.

26. The Turks and Caicos Islands National Insurance Board, a statutory body of the territorial Government, is the sole provider of social insurance benefits to persons who are gainfully employed within the Turks and Caicos Islands between the ages of 16 and 65 years.

B. Labour and immigration

27. The Territory's main employer is the public sector which, according to the administering Power, employs nearly one fifth of the working population. Other main areas of employment include tourism, construction and business services.

28. In recent years the unemployment level has fluctuated and possibly increased. In the construction sector, it continued to be a major challenge in 2012 due to the effects of the global economic crisis. Unemployment rates vary among the main islands with the more rural ones more adversely affected. In 2012, the public sector conducted a "right sizing" exercise as a part of a major public sector reform, which drastically reduced the number of government employees through a voluntary severance scheme.

29. Preliminary data from the 2012 census indicates that the non-belonger population increased. This was attributed to foreign workers employed in the Territory hailing from Haiti, the Dominican Republic, Jamaica and elsewhere in the Caribbean region. In recent times, an increase in the number of Filipino, European and American employees coming into the Islands was also noted.

30. According to the administering Power, a major public consultation exercise was conducted between November 2011 and February 2012 on the pathway to British Overseas Territory citizenship and Turks and Caicos Islander status. Participation was fairly high and the amendments to the Territory's immigration ordinance reflected the views of the majority. A robust, transparent and simplified system was put in place later that same year. Guidance and amendments to the ordinance have been published.

C. Education

31. Education in the Territory is free and compulsory for children from 4 to 16 years of age. There are 47 schools with a total enrolment of approximately 5,200 pupils covering from preschool up to tertiary education. Of these, 14 are Government-run,

10 are primary schools and 4 are high schools. Although there are more private than public schools, approximately 79 per cent of students are enrolled at public schools. The adult literacy rate is estimated at 98 per cent. The rate among immigrants is much lower.

32. As to higher education, there is a community college with branches on Grand Turk and Providenciales that provides two-year and four-year courses. Citizens from the Overseas Territories benefit from the home student fee rate at British universities. During 2011/2012, the Government reduced scholarship commitments to $2.6 million and streamlined the scholarship programme by ensuring that awards are granted only on merit to institutions within the Caribbean and the United Kingdom.

D. Public health

33. According to the administering Power, medical facilities in the Turks and Caicos Islands have recently improved with the opening of new hospital facilities on Providenciales and Grand Turk, both operated by Interhealth Canada. They provide a range of services, including diagnostic services, primary care and outpatient specialty clinics, emergency services and inpatient care. Serious cases are still referred overseas, usually to Miami or Nassau. In 2012, a National Strategic Health Plan was being elaborated by the Ministry of Health and Human Services. It is expected to involve public consultation with all major stakeholders in 2013.

34. As previously reported, in 2010, in implementation of a National Health Insurance Plan, health care was extended to all legal residents of the Turks and Caicos Islands, and not solely to belongers. According to the administering Power, as a result of the implementation of the plan, all residents within the Territory are expected to contribute to health care at a rate of 6 per cent, split evenly between the employer and the employee. The plan is set up on the basis of equity, which requires all contributors to be treated fairly. All local and legal foreign workers registered under the plan receive the same level of care.

35. The United Kingdom Overseas Territories Joint Ministerial Council Communiqué of 5 December 2012, inter alia, expressed agreement between the United Kingdom and the Territories present, including the Turks and Caicos Islands, on the importance of health security and on achieving compliance with the requirements of the International Health Regulations, an international legal instrument binding on 194 countries, including all WHO member States, by June 2014. Furthermore, the participants agreed to identify and make use of all available sources of assistance, in particular from regional and global health organizations, such as the Pan-American Health Organization and United Nations agencies, to share best practices on health strategies and processes with special emphasis on treatment and care of non-communicable diseases, and to improve representation of the Territories and linkages with global and regional health bodies.

E. Crime and public safety

36. According to the administering Power, the crime rate in the territory remains low comprising mainly theft and burglary, but also some violent crime, including

armed robbery and sexual assault. In 2012, there was one murder compared to two in 2010 and four in 2011.

37. While the Territory is highly susceptible to the impact of drugs, firearms and illegal migrant trafficking, it benefits from being a member of Operation Bahamas, America and Turks and Caicos, a 1982 tripartite arrangement to combat drug trafficking. United States Coast Guard helicopters assigned to the Operation are positioned in Providenciales. In 2012, border surveillance of the Territory was strengthened with the completion of a new coastal radar station. In the second half of 2012, there have been four migrant sloop landings/interdictions. Authorities have noticed a change in the demographics of the migrants with an increasingly younger and more criminally minded population. Drug seizures within the Territory continue to remain low.

38. As previously reported, a Special Investigations and Prosecution Team was established following the 2009 Commission of Inquiry. According to the administering Power, a large criminal investigation resulted in 14 people (including a former Premier and cabinet ministers) being charged with serious criminal offences, including bribery, conspiracy to receive bribes, conspiracy to defraud the Turks and Caicos Islands Government, conceal or transfer the proceeds of criminal conduct, and conspiracy to pervert the course of justice. In 2012, former Premier Michael Misick was arrested. Also, approximately 2,500 acres of Crown land have been recovered and various significant financial settlements received, for an amount of $19.5 million. The investigations and prosecutions would proceed independently of the elected Government, as it is for the courts to decide guilt or innocence.

39. In December 2012, the population of the administering Power's prison in Grand Turk stood at 101, with 25 on remand and 76 serving sentences, including 2 juveniles (1 convicted and 1 on remand). There is no special juvenile facility in the Territory.

40. According to the administering Power, the approach of the interim Government has been to work with international and regional technical assistance providers, such as the International Monetary Fund and the Caribbean Financial Action Task Force and with in-territory agencies, including the Financial Services Commission, to enhance their own systems to detect, investigate and prosecute money-laundering and other suspected abuses.

F. Human rights

41. As previously reported, in 2008, the Human Rights Commission Ordinance established the Human Rights Commission to help the Territory conform to international standards concerning various human rights obligations. According to the administering Power, work was done in 2012 to amend the Human Rights Commission Ordinance so as to strengthen the functions commensurate with its new role as one of the institutions for the protection of good governance as provided for in the 2011 Constitution Order.

42. Work on a national action plan on human rights was ongoing. A Human Rights Commission website and e-mail address were created in 2012, while various education efforts continued to raise awareness of human rights. Moreover, during the latter part of 2012, the Commission conducted a comprehensive review of local

laws to identify weaknesses in the legislation for compliance with the Convention on the Elimination of All Forms of Discrimination against Women, in order to correct identified weaknesses in legislation.

43. The following major human rights conventions have been extended to the Turks and Caicos Islands: the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Elimination of Racial Discrimination. Furthermore, the European Convention on Human Rights applies to the Turks and Caicos Islands and individuals have the right to bring cases to the European Court of Human Rights when no other remedy exists in the Territory. According to the administering Power, the right of individual petition under the European Convention on Human Rights has been extended to the Turks and Caicos Islands indefinitely.

44. According to the United Kingdom, the 2011 Constitution Order strengthens the fundamental rights chapter in the 2006 Constitution and adds some new rights. For instance, an Equality Ordinance was passed in 2012 which equalizes the age of consent, and clarifies the protections from discrimination set out in the Constitution. This makes the age of consent for heterosexuals and homosexuals equal in law at 16 years of age. Equalizing the age of consent for both heterosexuals and homosexuals ensures that the Territory is no longer in breach of the European Convention on Human Rights in that regard.

45. According to the "Human Rights and Democracy: The 2011 Foreign and Commonwealth Office Report" issued in 2012, the protection and promotion of human rights in each territory is primarily the responsibility of the territorial government while the United Kingdom Government is ultimately responsible for ensuring that the territories fulfil their obligations arising from international human rights treaties that have been extended to them.

V. Environment

46. The Territory's Department of Environment and Coastal Resources is charged with the conservation, the protection and the management of the natural resources of the Turks and Caicos Islands, including the wetlands on Providenciales. According to the administering Power, while Providenciales is heavily developed, many of the other islands in the archipelago remain largely ecologically intact.

47. In 2012, the Turks and Caicos Islands participated in the regional conference for the Caribbean Regional Fisheries Mechanism, at which planning for sustainable fisheries and disaster risk management were discussed along with climate change issues.

VI. Relations with international organizations and partners

48. The Turks and Caicos Islands has associate membership in the Economic Commission for Latin America and the Caribbean, including in the Commission's Caribbean Development and Cooperation Committee.

49. The Turks and Caicos Islands is an associate member of the Caribbean Community (CARICOM). In February 2013, CARICOM noted with grave concern that, although the elections of November 2012 had led to the restoration of representative government, the overall state of political affairs remained less than desirable and the restoration of true democracy was still a long way off. The 2011 Constitution, in the view of CARICOM, was conceived in London and thrust upon the people of the Turks and Caicos Islands when they were without representation. It was seen as a mere by-law for the continuance of direct rule under the pretext of representative democracy. Further, of additional concern were the challenges emanating from the workings of the justice system in relation to the criminal investigations that followed the commission of enquiry.

50. The Territory is a member of the Caribbean Development Bank and the International Criminal Police Organization, as well as of the Caribbean Financial Task Force, which was set up to combat money-laundering in the Caribbean Basin. Further, the Turks and Caicos Islands is a member of the Caribbean Regional Fisheries Mechanism, and an associate member of the Association of Caribbean States. According to the United Kingdom, closer links were being sought with the Organization of Eastern Caribbean States, and with neighbouring Bahamas.

51. The Turks and Caicos Islands is associated with the European Union through the provisions of Part IV of the Treaty on the Functioning of the European Union and the detailed rules and procedures set out in the Overseas Association Decision of 27 November 2001 (2001/822/EC). The Territory anticipates receipt of the ninth European Development Fund allocation of €5 million to the Territory during financial year 2012/13. Also, preparation is being made to facilitate access to the tenth European Development Fund allocation of €12 million, scheduled during 2013/14.

52. In December 2012, the Overseas Territories Joint Ministerial Council also reached agreement between the United Kingdom and the Territories present at the meeting, including the Turks and Caicos Islands, to work together inter alia to further develop links with the United Nations and its agencies and regional partners particularly in the Caribbean, and expressed the belief that the Special Committee should delist Territories whose wish it was to do so (https://fco-stage.fco.gov.uk/resources/en/pdf/uk-ot-communique.pdf).

VII. Future status of the Territory

A. Position of the territorial Government

53. Information on political and constitutional developments regarding the Turks and Caicos Islands is contained in section I above.

B. Position of the administering Power

54. On 11 October 2012, the representative of the United Kingdom made a statement before the Special Political and Decolonization Committee (Fourth Committee) during the sixty-seventh session of the General Assembly. According to the summary record of the meeting (A/C.4/67/SR.5), the representative stated,

inter alia, that the British Government maintained its long-standing position on independence for the Territories. Any decision to sever the constitutional link between the United Kingdom and a Territory should be taken on the basis of the clear and constitutionally expressed wish of the people of the Territory. Where independence was an option and it was the clear and constitutionally expressed wish of the people to pursue independence, the United Kingdom Government would meet its obligations to help the Territory to achieve it.

55. Further, the representative referred to the White Paper that the United Kingdom Government had published in June 2012, confirming the Government's commitment to maintaining the overall relationship between the United Kingdom and the Territories. In the introduction, the Government expressed the belief that the fundamental structure of the constitutional relationships was the right one: powers were devolved to the elected governments of the Territories to the maximum extent possible consistent with the United Kingdom retaining powers necessary to discharge its sovereign responsibilities, including to ensure that constitutional arrangements work effectively to promote the best interests of the Territories and of the United Kingdom. The Government recognized that it was important to continue to reflect on the constitutional relationship, and would ensure that a dialogue on these issues was sustained with all those Territories that wished to engage.

56. The representative went on to say that the 2012 White Paper had made it clear that the United Kingdom Government's fundamental responsibility and objective was to ensure the security and good governance of the Territories and their peoples. This responsibility flowed from international law including the Charter of the United Nations. But being an Overseas Territory of the United Kingdom also entailed responsibilities. The United Kingdom Government expected territorial Governments to meet the same high standards as it did in maintaining the rule of law, respect for human rights and integrity in public life, delivering efficient public services, and building strong and successful communities. The United Kingdom Government would take firm and resolute action wherever there was evidence of corruption or maladministration in a Territory. The representative concluded that the relationship between the United Kingdom and its Overseas Territories continued to be a modern one based on partnership, shared values and the right of each Territory to determine whether it wished to stay linked to the United Kingdom or not. For as long as the United Kingdom Overseas Territories wished to retain the link to the United Kingdom, the United Kingdom Government would remain committed to their future development and continued security.

C. Action by the General Assembly

57. On 18 December 2012, the General Assembly adopted without a vote resolution 67/132 based on the report of the Special Committee (A/67/23) and the subsequent recommendation by the Fourth Committee. In section X of resolution 67/132 B, concerning the Turks and Caicos Islands:

The General Assembly,

...

1. *Notes with grave concern* the ongoing situation in the Turks and Caicos Islands, and notes the efforts of the administering Power to restore good

governance, including through the introduction in 2011 of a new constitution, and the holding of elections in November 2012, and sound financial management in the Territory;

2. *Notes* the positions and repeated calls of the Caribbean Community and the Movement of Non-Aligned Countries for the restoration of democratically elected territorial Government as a matter of urgency;

3. *Also notes* the extensive public consultations undertaken by the Constitutional and Electoral Reform Adviser and the continuing debate on constitutional and electoral reform within the Territory, and stresses the importance of participation by all groups and interested parties in the consultation process;

4. *Stresses* the importance of having in place in the Territory a Constitution that reflects the aspirations and wishes of the people of the Territory, based on the mechanisms for popular consultation;

5. *Requests* the administering Power to assist the Territory by facilitating its work concerning public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

6. *Welcomes* the active participation of the Territory in the work of the Economic Commission for Latin America and the Caribbean;

7. *Also welcomes* the continuing efforts made by the territorial Government addressing the need for attention to be paid to the enhancement of socioeconomic development across the Territory.

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Guam

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government. Further details are contained in previous working papers posted on the United Nations website (www.un.org/en/decolonization/workingpapers.shtml).

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The Territory at a glance

Territory: Guam is a Non-Self-Governing Territory administered by the United States of America. As an unincorporated organized territory of the United States, it is administered by the Office of Insular Affairs of the United States Department of the Interior.

Geography: Guam is the southernmost and largest of the Mariana Islands in the Pacific Ocean, situated about 2,200 km south of Tokyo and 6,000 km west-south-west of Hawaii. It consists of a single island comprising two distinct geologic areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbor is one of the largest deep-water ports in the Pacific.

Land area: 540 km².

Exclusive economic zone: 214,059 km².[a]

Population: 159,358 (2010 census).

Languages: English and Chamorro.

Ethnic composition (2000 census): 37.1 per cent Chamorro; 26.3 per cent Filipino; 11.3 per cent other Pacific islanders; 6.9 per cent white; 6.3 per cent Asian; 2.3 per cent other ethnic origin; and 9.8 per cent mixed.

Capital: Hagåtña.

Head of the territorial Government: Eddie Baza Calvo (elected Governor in November 2010).

Territory's delegate to the United States Congress: Madeleine Z. Bordallo (re-elected in 2012).

Main political parties: Democratic and Republican Parties.

Elections: Most recent: 2012; next: September 2014.

Legislature: Unicameral 15-member legislature. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches.

Gross domestic product (GDP) per capita: $25,420 (2005 chained dollars, 2010 estimate).

Economy: Principal sources of revenue: tourism and the United States military presence.

Unemployment: 10.9 per cent (September 2012).

Monetary unit: United States dollar.

Brief history: Missionaries from Spain arrived in Guam in the late seventeenth century when the island was inhabited by the indigenous Chamorro people, of Malayo-Polynesian descent. The Chamorro now constitute just over one third of the population and play an active role in the political and social life of the island, which has evolved into a multi-ethnic society.

[a] Exclusive economic zone data derived from Johann D. Bell, Johanna E. Johnson and Alistair J. Hobday, eds., Vulnerability of Tropical Pacific Fisheries and Aquaculture to Climate Change (Nouméa, New Caledonia, Secretariat of the Pacific Community, 2011), e-book. Available from www.spc.int/climate-change/fisheries/assessment/e-book.

I. Constitutional, legal and political issues

1. Guam was administered by the Department of the Navy of the United States of America until 1950, when the United States Congress enacted the Organic Act of Guam, which established institutions of local Government and made Guam an unincorporated territory of the United States with limited self-governing authority. Since then, the Territory has been administered by the Department of the Interior. Guam is an unincorporated territory, since not all provisions of the United States Constitution apply to the island. As such, Guam is a possession but not part of the United States.

2. The United States Constitution does not permit Guam to appoint electors of the President and Vice-President of the United States. The people of Guam elect a Governor, who serves for a four-year term. No person who has been elected Governor for two full successive terms shall again be eligible to hold that office until one full term has elapsed. The Governor is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the legislature, make his or her views known to that body and veto legislation. Following the November 2010 elections, Eddie Baza Calvo (Republican) was declared the new Governor of Guam.

3. Fifteen senators who serve two-year terms in the unicameral legislature are also elected. The legislature may override the Governor's veto. Under the 1950 Organic Act of Guam, the United States Congress reserves the authority to annul any law enacted by the Guam legislature. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In the November 2012 legislative elections, the Democrats won nine seats, and the Republicans six seats.

4. Since 1972, Guam has had one delegate to the United States House of Representatives. As previously reported, the delegate, who serves a two-year term, may vote in committee and, since January 2007, on floor amendments, but not on the final approval of bills. In the November 2012 elections, Madeleine Z. Bordallo, a Democrat, was re-elected for her sixth term as delegate to the United States Congress with 58 per cent of the votes.

5. The judicial system in Guam comprises local and federal components. The local judicial system consists of a Superior Court and a Supreme Court, which are led by judges appointed by the Governor and confirmed by the legislature. Local judges are subject to confirmation by voters every six years. In 2004, the judiciary of Guam was established as an independent branch of Government. The law confirmed the appellate jurisdiction and administrative authority of the Supreme Court of Guam over all inferior courts in the Territory, thereby effectively establishing a unified local judiciary.

6. At the federal level, a District Court judge, appointed by the President of the United States, is the head of the United States District Court of Guam. In 1998, Congress adopted an amendment to the Organic Act of Guam, allowing the Guam legislature to elect its own Attorney General for a four-year term. The Attorney General is the chief legal officer of the Government of Guam and is empowered with prosecutorial authority.

7. Periodically, there have been moves to change the island's political status. The Guam legislature established the first Political Status Commission in April 1973. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but also to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of 5 to 1, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted. Another referendum was held in 1982, with 73 per cent of voters opting to pursue commonwealth status with the United States.

8. The Commission on Self-Determination, established in 1980, completed a draft commonwealth act in 1986, which, after a public education campaign, was submitted for an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19-37). Voters approved the core proposals but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of those outstanding provisions were approved after having been amended and rewritten. A summary of the main points in the draft commonwealth act is contained in a 2001 working paper (A/AC.109/2001/4).

9. Subsequent discussions, held from 1989 to 1997, between the Commission and the Government of the United States on a commonwealth agreement did not reach a resolution. In 1997, Guam Public Law 23-147 established the Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination in order to address an important but controversial issue involving the Chamorro population. The Commission, in concert with a process of registration of eligible voters organized by the Guam Election Commission, was to oversee the conduct of a vote with regard to the status preferences of the Chamorro people (independence, integration or free association), in accordance with international standards

10. In 2000, the Guam legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite, in which it was expected that the Territory's indigenous people would be asked to choose between statehood, independence and free association with the United States. The plebiscite would have been non-binding but would at the same time have set the course for any future discussions of political status with the administering Power. The vote, scheduled to take place on 2 November 2004, was postponed because eligible voters had not been identified and registered. In October 2010, the President of the United States, Barack Obama, signed bill H.R. 3940 into law. The Law clarifies the Secretary of the Interior's authority and obligation to provide federal funding for political status education on Guam. It should help the people of Guam become aware of their constitutionally viable political options. Eligible voters are those who can trace their roots back to those residents living on the island at the time of the passage of the Organic Act in 1950 who were made citizens by federal law. Universal suffrage with respect to elections applies to United States citizens who are 18 years of age or over and legally resident in Guam. All persons born in Guam and subject to the jurisdiction of the United States are citizens of the United States. The Guam Election Commission announced that as at November 2012 there were 50,701 registered voters, an 8 per cent increase since February 2012, and 6,340 registered native inhabitants, a 21 per cent increase over the same period.

11. In 2011, Mr. Calvo convened the Commission on Decolonization for the first time in about a decade. The Commission is preparing a preliminary report on an education programme designed to keep residents informed regarding the future plebiscite vote for self-determination. The report will detail timelines and procedures and must be submitted to the Guam legislature for review.

12. During the Pacific regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, held in Quito from 30 May to 1 June 2012, the representative of the Government of Guam stated that the Territory's colonial status had resulted in a situation in which the Chamorro people's survival as a people in its native land was threatened and that the work of the Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination in 2011 was centred on setting a date for the plebiscite on Chamorro self-determination and on identifying the resources to fund an education campaign to inform the community of the political status issue. The Director General of the Commission on Decolonization stated that the level of awareness of decolonization had been increased as a result of outreach programmes. In this regard, he stated that funding for an educational programme was the top priority for the Commission, as it hinged directly on the Commission's ability to set the plebiscite date. He requested the assistance of the Special Committee in attaining the funds or technical assistance necessary to educate the people of Guam about the three political status options. Much progress had been made to populate the decolonization registry, both in terms of the number of Chamorro registered and the capacity to register the remaining ones.

II. Military and related issues

13. As previously reported, in 2009 the United States decided that United States Marine Corps capabilities in the Pacific region would be realigned by 2014, through the transfer of United States military personnel from Okinawa, Japan, to Guam. At that time, according to the administering Power, the relocation, costing over $10 billion, would bring 8,600 marines, 630 army personnel and about 10,000 dependants to Guam. More than 33,000 foreign workers would also be needed to build wharves, aircraft carrier berths, roads, military barracks and homes.

14. A study carried out in 2010 pointed out that the military expansion would strain the island's limited infrastructure, health care and ecology. In February 2010, the Territory's Environmental Protection Agency stated that a military build-up could trigger island-wide water shortages, which would fall disproportionately on a low-income, medically underserved population. It also indicated that it would overload sewage-treatment systems in such a way as to possibly cause significant adverse public-health impacts.

15. Opposition to the military expansion stemmed from concerns about its economic, sociocultural and environmental impact on the Territory. It was feared that anticipated economic benefits associated with the build-up would be offset by higher inflation, increased congestion and greater pressure on outdated infrastructure.

16. According to the administering Power, in June 2011 the United States Secretaries of State and Defense met with the Minister for Foreign Affairs and the Minister of Defence of Japan in two-by-two talks which reaffirmed the realignment

goals of the agreement between the United States and Japan but extended the date of completion of Guam build-up facilities from 2014 to an indefinite date in the future. Moreover, the United States Congress, by the National Defense Authorization Act of 2012, delayed, pending new studies, the fulfilment of the obligation to fund civilian projects related to the Guam military build-up. A Civilian-Military Coordination Council was established to assist the Department of Defense in implementing an Adaptive Program Management, whereby the Department of Defense would monitor the build-up and adjust the construction pace should it have an undue impact on the environment and/or the infrastructure.

17. On 5 January 2012, the United States President released a new strategic guidance document that directed rebalancing towards a strengthened presence in the Asia-Pacific region. In March, the United States Department of Defense tasked the Center for Strategic and International Studies with conducting an independent assessment of the United States posture in the Pacific. On 24 July 2012, the Secretary of Defense submitted to Congress the Center's assessment, together with his disagreement with the Center's suggestion that the Department could consider moving fewer than approximately 5,000 marines to Guam, as moving fewer than that number would undermine the United States plan to establish multiple, fully capable marine air-ground task forces across the Asia-Pacific region.

18. On 26 April 2012, a joint United States-Japan statement specified that, out of about 9,000 marines to be relocated from Okinawa, 5,000 of them would move to Guam when appropriate facilities were available to receive them. The move would cost a total of $8.6 billion, with Japan contributing $3.1 billion.

19. The National Defense Authorization Act for Fiscal Year 2013 (H.R. 4310; S.3254) was enacted after being signed by President Obama on 2 January 2013. The Territory's delegate to the United States Congress noted that the bill would loosen restrictions on obligating and spending United States military construction funds and contributions from the Government of Japan directly tied to the build-up.

20. On 1 February 2013, the Inspector General of the Department of Defense issued the annual report of the Inter-Agency Coordination Group of Inspectors General for Guam Realignment covering the period from 1 January to 31 December 2012. The report, which provided an update on the progress and efforts undertaken in the realignment of forces to Guam, identified the military construction programmes and operations on the Territory.

III. Land issues

21. The question of land use and land ownership encompasses two major issues: the return of unused or underutilized lands held by the United States Department of Defense and the return of those lands to the original Chamorro landowners. In view of the envisaged military build-up, the Department of Defense has been interested in acquiring at least an additional 2,200 acres of non-federal land. Of the 147,000 acres of land available on Guam, the Department of Defense currently possesses 40,000 acres, or 27.21 per cent of the island's land mass. Private landowners in the Territory have the right to refuse to sell any of their land for military purposes. With regard to public land, such requests would need the approval of the Guam legislature.

22. It has been reported that the Department of Defense and Guam are at an impasse over the question of the use of ancestral land for a Marine Corps firing range. The military has been unable to get the support needed from the Government of Guam to place Marine live-fire ranges on ancient Chamorro land at Pagat Village, a federally registered archaeological site that holds deep meaning for many inhabitants of the island. The Government of Guam signed the Programmatic Agreement in March 2011 to preserve cultural and historical properties on the island during the build-up in preparation for the transfer of marines, their dependants and support staff as early as 2016.

IV. Budget

23. The budget comprises revenues received by the Government of Guam and federal grants, with the latter generally allocated, on an ad hoc basis, to particular sectors through the Department of the Interior. The territorial Government's operating revenues fall under four classifications: General Fund, Special Funds, Federal Grant-in-Aid and Semi-Autonomous and Autonomous Agencies Operating Funds. According to federal law, all island residents, including military personnel, must pay income taxes to the Guam General Fund and not to the federal Government. The Governor has the power to veto a budget bill; however, the legislature can either override the Governor's veto by a special majority or reconsider the bill.

24. In September 2012, the Governor signed into law the budget for the fiscal year ending 30 September 2013, while stating that the budget was not balanced, with an overappropriation of about $1.4 million. On 31 January 2013, the Office of the Governor of Guam presented the executive budget for fiscal year 2014 to the Guam legislature, outlining the major budgetary goals and achievements of the previous fiscal year.

V. Economy

A. General

25. The economy of Guam continues to be based on two main pillars: tourism and the military. The Territory has been attempting to create an environment conducive to the development of other industries, such as financial services, telecommunications and transportation. Manufactured products include textiles and garments, cement and plastics. Re-exports constitute a high proportion of the Territory's exports, which include petroleum products, iron and steel scrap, automobiles, and tobacco and cigars. The main trading partners of the Territory include the United States, Japan, Germany and China.

26. According to the executive budget for fiscal year 2014 submitted to the thirty-second Guam legislature, the economic outlook for the Territory's short-term future throughout the remainder of fiscal year 2013 and continuing into fiscal year 2014 is likely to be one of economic stability on a plateau relatively comparable to current levels, while modest growth appears probable. However, a number of potential risks could lead to a less positive outlook. The economic recovery that Guam experienced in fiscal year 2012 was due in large part to the continuing revitalization of outbound

tourism from Japan. Other factors contributing to the rebound in the Territory's economy include an increase in construction and a significant infusion of bond-financed payments for outstanding income tax refunds. Furthermore, the commencing of Department of Defense construction projects, including those that already have funding appropriated from the Governments of the United States and Japan for the realignment of Marine Corps forces from Okinawa, is not expected in fiscal year 2014. A supplemental environmental impact study, additional plans and reports, as well as the procurement process, must be completed before such construction projects are implemented.

B. Tourism

27. According to the executive budget for fiscal year 2014 submitted to the thirty-second Guam legislature, the total number of visitor arrivals in Guam in 2012 was 1,307,796, a 12.8 per cent increase over the 2011 figure and the highest since 2000. The Guam Visitors Bureau projects a 3.8 per cent increase in fiscal year 2013 and another 2.6 per cent increase in fiscal year 2014. On the website of the Guam International Airport Authority, it is noted that Guam was ranked fifth overall among the top United States ports in terms of international arrivals in February 2012, ranking right below Honolulu, Hawaii, and above San Francisco, California, and Newark, New Jersey. Guam has been gaining in its reputation as a preferred destination, having moved up in rank from eighth in November 2011 to sixth in January 2012 and to fifth overall in February, according to statistics released by the United States Office of Travel and Tourism Industries.

28. Visitor arrivals in Guam will continue to be facilitated by visa waiver programmes implemented in previous years, as well as faster processing of visas for visitors from the mainland of China. Japan has the largest share of tourists in Guam, although the share has been declining somewhat, owing also to the successful expansion of and diversification to other markets. Between 2011 and 2012, arrivals to Guam from China increased by 26.5 per cent, from the Republic of Korea by 22.6 per cent and from Japan by 12.7 per cent. Visitors from Russia increased by 538.9 per cent, following the implementation of a visa waiver programme.

C. Transport and communications

29. The Territory's road network is just less than 1,000 miles long. Of this, 420 miles are classified as "non-public". Of the 550 miles of public roads, there are approximately 144 miles of primary and some secondary roads. To maintain the territorial highway system of Guam, its Government receives $18.4 million from the United States Department of Transportation and the Federal Highway Administration. From 2008 to 2011, the Government of Guam received $246 million from various federal allocations.

30. The Port Authority, which is a public corporation and an autonomous agency of the Government of Guam, administers the commercial port facilities at Apra Harbor, which is the entry point for 95 per cent of all goods entering Guam and serves as a trans-shipment centre for Micronesia. Three refurbished cranes from the Port of Los Angeles have been retrofitted and modified to enhance their productivity and handling capabilities. The Merchant Marine Act of 1920 (also known as the

Jones Act) requires that goods shipped between United States ports must be on ships built and registered in the United States, at least 75 per cent owned by United States companies and 75 per cent manned by United States citizens. The 2030 Guam Transportation Plan, approved by the Guam legislature, became an official component of the island's Comprehensive Development Plan. The Plan, which is a long-term strategy designed to improve the Territory's transportation system, incorporates improvements to roadways and mass transportation, while accommodating pedestrians and bicycles. It also addresses other issues, such as the proposed military build-up.

31. In 2012, the Department of Public Works of the Government of Guam developed the Guam Transportation Improvement Plan for fiscal years 2012 to 2015, in addition to the 2030 Guam Transportation Plan. The Transportation Improvement Plan for 2012-2015 provides a list of near-term projects addressing safety, pavement, bridge conditions and traffic operations in consultation with the Federal Highway Administration and inputs from the public.

D. Water system, sanitation and utilities

32. About three quarters of the Territory's water supply is provided by the Guam Waterworks Authority. The Government's water sources consist of groundwater and surface water (from the Ugum River). The remainder is located at air force and naval installations in Guam. The naval water source is a surface reservoir (Fena Lake) in the southern part of the island. The Guam Waterworks Authority is currently facing acute problems, including increasing energy prices, the reliance on water purchases from the United States Navy, limited funding for infrastructure improvements, and operations conducted with limited financial and manpower resources. In addition, the accelerated growth to be achieved through the military build-up continues to be a point of concern. The Authority's Capital Improvement Plan 2011-2015 is the first detailed plan for ensuring that the Authority continues to provide quality services. Examples of capital improvements include water production facilities, water distribution systems, wastewater collection systems, wastewater treatment plants and major one-time equipment acquisitions.

E. Agriculture and fisheries

33. The farming and fishing sectors are relatively well developed. The main types of produce are vegetables, citrus and tropical fruits, coconuts and sugar cane. The various divisions of the Department of Agriculture deal with animal and plant industry, agricultural development, forestry and soil resources and aquatic and wildlife resources.

34. At a 2009 meeting in Hawaii, the Western Pacific Regional Fishery Management Council recommended that the United States Department of Defense and the National Marine Fisheries Service investigate and address the issue of the impact of the ongoing military build-up on local fishing communities and that a mitigation and compensation plan be developed to assist those affected, including in Guam. No follow-up action has been reported thus far.

VI. Social conditions

A. Labour

35. According to the Guam Bureau of Labor Statistics, the unemployment rate in Guam in September 2012 was 10.9 per cent, a decrease of 0.9 percentage points from the March 2012 figure. In September 2012, the total number of unemployed was 7,970, a decrease of 2,220 from the previous survey in June 2012.

B. Education

36. Guam has an extensive public and private education system. The public education system includes the University of Guam and Guam Community College. The Guam Department of Education is responsible for nearly 30,000 students in 41 schools. There are approximately 25 private schools in Guam, including 2 business colleges, 5 high schools and a number of elementary schools, most of which are affiliated with Roman Catholic and Protestant religious denominations.

37. The Territory receives millions of dollars in federal funding each year to support such programmes as special education, summer school, the school lunch programme and the after-school Department of Education Extended Day programme. In November 2012, the Superintendent of the Guam Department of Education was awarded $20.7 million in funding by the United States Department of Education to support the island's efforts to improve student achievement.

C. Health care

38. The estimated life expectancy of Guamanians is about 75 years for males and 81 years for females. The Guam Memorial Hospital Authority is the only civilian in-patient medical facility that serves the public sector. The Authority has a capacity of 172 acute-care beds and 30 long-term care beds. The United States Naval Hospital primarily serves the military sector. There are three community/public health centres, one located in the north, one in the south and one in central Guam. Guam has 271 doctors and 92 medical clinics.

39. According to the World Health Organization Country Cooperation Strategy for Guam 2013-2017, the prevalence of non-communicable diseases in Guam continues to rise. Between 2001 and 2005, 61 per cent of all deaths were attributed to non-communicable diseases (31 per cent from heart disease, 16 per cent from cancer, 8 per cent from cerebrovascular disease, 3 per cent from diabetes and 3 per cent from chronic obstructive pulmonary disease). In 2006, the percentage of deaths due to non-communicable diseases increased to 81 per cent. Guam experienced several infectious outbreaks in 2011. As part of the military build-up, a new military hospital is being built to replace the current one built in 1954, and construction is expected to be completed in 2014. The hospital will have 42 in-patient beds and 6 beds in the intensive care unit.

VII. Environment

40. The Guam Environmental Protection Agency comprises five components: the Administrative Services Division, the Environmental Monitoring and Analytical Services Division, the Environmental Planning and Review Division, the Air and Land Programs Division and the Water Programs Division.

41. Guam continues to experience environmental problems related to the United States occupation during the Second World War and the atomic testing conducted by the administering Power in the Marshall Islands in the 1950s. Speaking at the Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, held in Kingstown in 2011, the representative of Guam pointed out that, on an island of 212 square miles, there were a total of 95 toxic sites. While there had been some progress towards clean-up by the Department of Defense, it was worrisome that 16 sites had long-term management status and 9 sites were undergoing feasibility studies and were under investigation to determine what future actions, if any, were required. Regarding the island's radiation exposure as a result of atomic bomb-related testing in the Marshall Islands in the 1950s, it was pointed out that efforts to address the presence of radiation in Guam had not been undertaken by the Department of Defense. While the Pacific Association for Radiation Survivors continued to advocate for the inclusion of Guam claimants as downwinders under the Radiation Exposure Compensation Act of Congress, the island's claimants had been recognized only within the compensation category of on-site participants, a classification for which only those connected with military service on the island qualified and not the entire exposed population.

42. As stated in the report of the Guam Comprehensive Economic Development Strategy, the Guam Environmental Protection Agency implements various programmes that monitor the status of the environment on a regular basis. United States Environmental Protection Agency regulations apply to Guam, but in some cases the Territory's own laws are more stringent than those of the United States. Guam is a relatively small and high-density island; hence its marine environment constitutes a key litmus test with respect to the overall environmental impact of human activity on the land. The quality of the marine waters has generally been found to be excellent across all indicators. At the confluence of the Pago River and its receiving marine waters, however, a high level of nitrate is in evidence, which is in violation of federal environmental standards. This has been attributed to nutrient loading by leachate from the island's Ordot landfill. Soil erosion, which is associated with construction activity or natural erosion, is another area of special concern in southern Guam, since sedimentation has resulted in the destruction of coral reefs in areas adjacent to the mouths of rivers.

43. Solid-waste landfills are an area of concern in Guam, given the limited land area. Problems are being magnified as the standard of living changes and increases in population and industrial activity bring more goods and commodities to the island. To reduce the volume of garbage entering the Ordot dump, a policy that banned such items as cardboard and organic waste was established. Through collaboration among community organizations, private businesses and the local government, some headway has been made in recycling solid waste, including through the creation by local businesses of the "i*recycle" programme. In addition to the issue of volume, there is that of potential contamination of the Territory's primary water supply, the northern aquifer. In 2010, the United States

Environmental Protection Agency issued a statement in response to the draft environmental impact statement of the Department of Defense, expressing concerns about how construction associated with the proposed military build-up may negatively affect the northern aquifer. Hazardous and toxic waste has a large potential for adversely affecting the Territory's environment. In recent years, this potential has increased significantly, as evidenced by the growth in the number of on-island hazardous waste generators and solid waste treatment, storage and disposal facilities.

44. Thirty-three per cent of the world's cyclones develop in the immediate area around Guam. In addition, according to the Global Assessment of Human-Induced Soil Degradation, the area of degraded soil in the Pacific is extensive. In Guam, major road building on steep slopes has caused erosion, and the resulting sedimentation has killed coral colonies on fringing reefs.

45. In July 2010, the Joint Guam Program Office published the final environmental impact statement on the implications of the build-up on Guam. Following the changes to the road map announced in April 2012, on 4 October the Office launched a supplemental environmental impact statement on the relocation of marines from Okinawa to Guam, to take account of the change in the number and composition of marines relocating. The assessment will include an evaluation of alternatives for the construction and operation of a live-fire training range complex, a main base and family housing, as well as a new assessment of impacts to the Territory's civil infrastructure, including its roadways.

46. Early in December 2012, the Department of the Navy announced that the public scoping assessment for the supplemental environmental impact statement had ended after a three-month period. The Joint Guam Program Office had held three public scoping meetings on Guam and met with more than 240 members of the public, including interest groups, representatives from the Guam legislature, some federal and local agencies and the Office of the Governor of Guam. The final document is expected to be released in 2014, and the record of decision, the final step in the supplemental environmental impact statement process, would be released only in 2015.

VIII. Relations with international organizations and partners

47. Guam has been an associate member of the Economic and Social Commission for Asia and the Pacific since 24 July 1981. The Territory is a member of the Secretariat of the Pacific Community, the Micronesian Chief Executives Summit, the Pacific Basin Development Council, the Pacific Islands Development Programme, the Pacific Asia Travel Association and the South Pacific Regional Environment Programme. It also participates in the Pacific Islands Applied Geoscience Commission and the Pacific Community Coastal Fisheries Programme. Guam has observer status in the Alliance of Small Island States. In 2011, Guam was granted observer status in the Pacific Islands Forum.

IX. Future status of the Territory

A. Position of the territorial Government

48. Developments regarding discussions on the future status of Guam are considered in section I above.

B. Position of the administering Power

49. In a letter dated 2 November 2006 addressed to the delegate of American Samoa to the United States House of Representatives, the Assistant Secretary of State for Legislative Affairs elaborated on the position of the Government of the United States. In his letter, the Assistant Secretary of State indicated that the status of the insular areas regarding their political relations with the federal Government was an internal United States issue, and not one that came within the purview of the Special Committee. He also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those territories and no mandate to engage the United States in negotiations on their status. He further noted that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions in the Non-Self-Governing Territories, the federal Government submitted annual updates on United States Territories to the Special Committee as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee might have received from other sources.

X. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

50. At its 9th meeting, on 20 June 2012, the Special Committee heard a statement made by a petitioner from Guam, as reflected in the relevant summary record of the meeting (A/AC.109/2012/SR.9). Mr. Aguon, a petitioner representing the Guåhan Coalition for Peace and Justice, said that the situation of colonized peoples could be corrected only through the exercise of the right to self-determination. A colonized people was clearly entitled to the opportunity to throw off colonialism by means of a plebiscite that offered voters the full spectrum of possible political status choices. Attempts by some commentators to conflate the international principle of self-determination with interim arrangements for self-governance were dangerously misrepresenting the existing provisions of international law. Discussions of self-determination had traditionally addressed the issue of populations living under alien colonial subjugation, but, prior to the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, little had been said about the self-determination of indigenous peoples. In the case of Guam, where the colonized population also constituted the colony's indigenous people, the exercise of that people's right to

self-determination would imply the recovery of both independence and indigeneity. The issue of who had the right to vote in a future self-determination plebiscite in Guam had yet to be resolved. The designation of "native inhabitants" in Guam legislation, which had sparked controversy as a limitation on the electorate, was historical rather than race-based. The people who had been harmed by colonization within a specific time period, ending no later than 1946 — the vast majority of them Chamorro — would be entitled to redress for that historical wrong. Yet some commentators had dared to assert that the United States Constitution required a colour-blind composition of the electorate, whereas it was the United States Government's rule of Guam that would be assessed in the plebiscite. The exercise of self-determination had to be governed by international law, not by United States domestic law.

51. He went on to state that according to General Assembly resolution 2625 (XXV), a Non-Self-Governing Territory had, under the Charter, a status separate and distinct from the territory of the State administering it, which meant that the United States, as the administering Power, could not exploit its control over immigration in Guam by flooding the island with its own non-colonized expatriates and then claiming that every resident of Guam was entitled to vote in a decolonization plebiscite. A 2002 ruling by the Human Rights Committee had repudiated a similar attempt by France to influence a self-determination referendum to be held in New Caledonia. A retired United States Air Force officer had filed a lawsuit in 2011 in the hope of overturning the Guam legislation that restricted the electorate in any self-determination plebiscite to "native inhabitants" of Guam. The contention that the law amounted to racial discrimination underscored the failure of the administering Power to apply international law to resolve a problem that was clearly international in nature. He urged the Special Committee to collaborate with the Sixth Committee to develop and publish a position paper on the composition of the electorate for any self-determination plebiscite to be held in Guam and to transmit a copy of the paper to each remaining Non-Self-Governing Territory.

B. Special Political and Decolonization Committee (Fourth Committee)

52. At its 3rd meeting, on 9 October 2012, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard one petitioner representing the Guåhan Coalition for Peace and Justice, Ms. Tiara R. Na'puti, who said that the planned increase in the military presence on the island would further push Chamorros to the margins and reinforce the economic, social and financial stranglehold of the United States. The United States was responsible for advancing the decolonization of Guam and for developing a programme to educate the people about the three self-determination options available to them in the forthcoming plebiscite. The eligibility requirements for participation in the plebiscite were established under United Sates law by the 1950 Organic Act of Guam and the 1965 Voting Rights Act. The administering Power should not allow its own legal process to be subverted by mischievous lawsuits seeking to bar the qualified indigenous electorate from exercising its right to self-determination (see A/C.4/67/SR.3).

C. Action taken by the General Assembly

53. On 18 December 2012, the General Assembly adopted without a vote resolutions 67/132 A and B on the basis of the report of the Special Committee transmitted to the General Assembly (A/67/23) and its subsequent consideration by the Fourth Committee. Section VI of resolution 67/132 B concerns Guam. In the operative paragraphs of that section, the General Assembly:

1. *Welcomes* the convening of the Guam Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination in 2011 and its work on a self-determination vote;

2. *Calls once again upon* the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in Guam law regarding Chamorro self-determination efforts, encourages the administering Power and the territorial Government to enter into negotiations on the matter, and stresses the need for continued close monitoring of the overall situation in the Territory;

3. *Requests* the administering Power, in cooperation with the territorial Government, to continue to transfer land to the original landowners of the Territory, to continue to recognize and to respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam and to take all measures necessary to address the concerns of the territorial Government with regard to the question of immigration;

4. *Also requests* the administering Power to assist the Territory by facilitating public outreach efforts, including through the funding of the public education campaign, consistent with Article 73 *b* of the Charter, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested, and welcomes the recent outreach work by the territorial Government, including the convening in 2011 of a Chamorro forum;

5. *Further requests* the administering Power to cooperate in establishing programmes for the sustainable development of the economic activities and enterprises of the Territory, noting the special role of the Chamorro people in the development of Guam.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

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Note: The present working paper covers the period from mid-February 2012 to mid-February 2013. The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations on 21 December 2012, in addition to information provided by the Government of Argentina and that available in public sources. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

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I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, comprising two large islands, known as East and West Falkland, as well as hundreds of smaller islands, and a total area of about 12,173 km^2. The Falkland Islands (Malvinas) are situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate territory; the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. The population of the Falkland Islands (Malvinas) is more than 2,500 (not including residents temporarily absent and civilians working in conjunction with the Ministry of Defence), representing the largest population recorded since 1931. A dispute exists between the Governments of Argentina and the United Kingdom concerning sovereignty over the Falkland Islands (Malvinas).

II. Constitutional and political issues

2. The Constitution approved in 2008, which came into force on 1 January 2009 (Statutory Instrument 2008, No. 2846), has been protested by Argentina (see A/63/542, annex I). Under the Constitution, members of the legislature elect a Speaker to preside over sittings of the Legislative Assembly. A Chief Executive is appointed by the Governor in agreement with the Legislative Assembly as head of the public service to implement policy. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Assembly who are elected annually from their own number, in addition to two ex officio members who have no voting rights. The Attorney General and the Commander of British Forces on the Islands have the right to attend meetings of the Executive Council but do not vote. The United Kingdom-appointed Governor has responsibility for foreign policy and defence. By the terms of the Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Territory, while full power to make such laws is reserved for the British Crown.

3. All eight members of the Legislative Assembly were elected on 5 November 2009, five from the Territory's urban constituency (Stanley) and three from the Camp (i.e., outside the Territory's only town), for a four-year term. The current Governor, Nigel Haywood, took up his appointment in October 2010. The next general elections for members of the Legislative Assembly are expected to be held in November 2013.

4. In 2012 and early 2013, Argentina and the United Kingdom continued to reiterate their respective positions regarding various constitutional, military and economic aspects of the sovereignty dispute over the Territory. That action included written démarches and the issuance of press releases by Argentina on 10 June 2012 in connection with the observance of the "Day of Affirmation of Argentine rights over the Malvinas Islands" and other areas, in addition to remarks and messages to the media, including a public letter from the President of Argentina addressed to the Prime Minister of the United Kingdom on 3 January 2013. It also included written

démarches by the United Kingdom before the United Nations and statements elsewhere, rejecting territorial and other claims made by Argentina and attaching great importance to the principle of self-determination (see A/67/703).

5. According to the administering Power, to make the wishes of the Islanders clear to the international community, a referendum will be held on 10 and 11 March 2013 on the following question: "Do you wish the Falkland Islands to retain their current political status as an overseas territory of the United Kingdom?". The Islanders would express their right to self-determination under Article 1 (2) of the Charter of the United Nations, article 1 of the International Covenant on Civil and Political Rights and General Assembly resolution 2625 (XXV) (see A/67/483).

6. For its part, Argentina repeatedly rejected the exercise as illegal under the relevant United Nations resolutions on the question of the Falkland Islands (Malvinas) and as a serious distortion of the spirit of self-determination and a tautological exercise (see also section X.B. below). Its position was generally supported by regional organizations such as MERCOSUR and the Union of South American Nations (UNASUR), which stated that the referendum "in no way changes the essence of the question of the Malvinas Islands" and that "its possible outcome will not end the sovereignty dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas" (see A/67/728 and A/67/729).

7. Against this background, efforts in 2012 and January and February 2013 for the Minister for Foreign Affairs of Argentina, Héctor Timerman, and the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom, William Hague, to hold a bilateral meeting in London were not successful. Additional information on the positions of the administering Power and the Government of Argentina can be found below.

III. Budget

8. The Territory's financial year runs from 1 July to 30 June. According to the administering Power, the Territory makes every effort to maintain a balanced budget. In 2012/13, the operating budget amounted to approximately £54 million.

IV. Economic conditions

A. General

9. The gross domestic product (GDP) of the Islands was estimated by the administering Power at £130 million per annum. The per capita GDP is approximately £44,000. Increasing revenue from corporation tax indicates a growing private sector. The fishing industry remains the most important sector of the economy (accounting for about 60 per cent of GDP), with the tourism sector and other sectors, such as livestock production and processing, witnessing growth in recent years. According to the administering Power, the latest Islands Plan (2012-2017) outlines a vision for economic growth, financial stability and improved quality of life, including transport and telecommunications infrastructure. According to media reports, following the planning approval granted in December 2011 for the construction of 13 urban

dwellings, a new project involving the building of an additional 26 two-bedroom apartments in the form of an 80-metre-long terrace is expected to begin in 2013.

B. Fisheries, agriculture and livestock

10. The Loligo, or *doryteuthis*, and Illex species of squid are the mainstay of the fisheries and economy of the Territory. In recent years, Loligo catches have been relatively stable, whereas Illex catches have declined. Loligo squid are fished in several zones and on the high seas. In addition to those two squid species, a number of finfish are targeted. According to the administering Power, the Fisheries Department is responsible for administering the fisheries sector in the Territory.

11. The most significant change in agriculture in recent years has been the development of the meat industry and of farming adjusted to produce dual-purpose sheep that would maximize returns from both meat and wool. According to the administering Power, 1.7 million kg of wool were exported from the Islands in 2011 and 48,500 sheep and lambs were processed through the Sand Bay abattoir for export. The Territory has an ongoing five-year business plan in support of agriculture. Industry sources indicate that, in 2012, 47,200 sheep and lambs were processed and more than 540 tons of meat and offal produced, earning farmers in excess of £1 million.

12. In 2012, Argentina presented a proposal to the Government of the United Kingdom to resume the negotiations, interrupted in 2007, on the mandate of the South Atlantic Fisheries Commission. The United Kingdom responded in June 2012 that any discussion relating to fisheries issues must include representatives of the territorial Government.

C. Tourism

13. Tourism is a significant contributor to the Territory's economy, valued at approximately £7 million per annum. There has been a measurable expansion in the Falkland Islands (Malvinas) tourism sector in recent years, with inbound tourism increasing by 9 per cent in 2011. The 2011/12 cruise season closed with a total of 35,159 passenger arrivals. Almost £1.8 million was spent in the Islands by cruise passengers, of which 58 per cent was spent on tours, 30 per cent on shopping and 12 per cent on food and drink.

D. Transport, communications and utilities

14. The Territory has approximately 1,000 km of roads. Work continues in upgrading roads connecting outlying settlements and farms. In addition to roads, communications are ensured by a coastal shipping service to settlements on the east, west and outlying islands, a regular ferry service between the two main islands and local air services.

15. In 2012, LAN Airlines continued to provide a regular weekly service between Punta Arenas, Chile, and the Falkland Islands (Malvinas), including two monthly stopovers in Río Gallegos, Argentina, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. Moreover,

under the Exchange of Notes Flights and Navigation Agreement of February 2001, private flights are authorized, as are a number of medical evacuation flights from the Falkland Islands (Malvinas) to mainland Argentina and Chile. In April 2012, Argentina made a proposal to review the situation on air links and establish a regular direct flight operated by its national flag carrier, Aerolíneas Argentinas. The Government of the United Kingdom responded in June 2012 that any discussion relating to air links must include representatives of the territorial Government.

16. In February 2010, in response to hydrocarbon-related activities carried out in waters around the Falkland Islands (Malvinas), Argentina issued Presidential Decree 256/2010 requiring authorization measures for vessels calling at Argentine ports or crossing Argentine waters. In this connection, in 2012 and early 2013, at a number of meetings, including the thirty-sixth annual meeting of the ministers for foreign affairs of the Group of 77, the twenty-second Ibero-American Summit of Heads of State and Government, the 2012 Latin America and Caribbean Summit, the third South American and Arab Countries Summit and the seventh ministerial meeting of the States members of the zone of peace and cooperation of the South Atlantic, in addition to those of MERCOSUR and UNASUR, it was recalled that the General Assembly, by resolution 31/49, had called upon both parties to the dispute to refrain from introducing unilateral modifications in the situation. The members of MERCOSUR and UNASUR had previously decided to close their ports to "vessels flying the illegal flag of the Malvinas Islands". In 2012, implementation of those decisions continued.

17. For its part, the United Kingdom continued to consider that Presidential Decree 256/2010 was not compliant with international law, including the United Nations Convention on the Law of the Sea. In 2012, it protested against what it termed the repeated and unilateral infringement by Argentina of the right of innocent passage and freedom of navigation under the Convention by taking action against the Islands' maritime transport arrangements (counter to General Assembly resolution 31/49).

18. Concerning telecommunications, the introduction of Island-wide rural broadband access improved the situation within and outside the Territory. In 2012, a new price control mechanism was introduced to regulate the prices of retail services provided by Cable and Wireless South Atlantic under its exclusive licence to the general public and businesses. Approximately 75 per cent of households are connected to broadband Internet.

19. According to the administering Power, the Territory's major wind farm meets approximately 26 per cent of urban electricity needs. The capacity of the wind farm has recently been doubled, with the expectation that, as a result, wind power will meet approximately 40 per cent of the Territory's urban electricity needs. Wind turbines are used in homesteads and small settlements.

E. Environment and hydrocarbons

20. According to the administering Power, the Territory works to uphold a number of environmental treaties and conventions. For its part, Argentina has rejected the territorial application of those treaties and conventions by the United Kingdom on the grounds that the Territory and its surrounding maritime areas are an integral part of Argentina.

21. In 2012, environmental projects included the conservation of penguins and seabirds, the eradication of rats from sensitive wildlife sites and a review of the network of protected areas, against whose extension to the Territory Argentina had formally protested.

22. Offshore exploration for hydrocarbons continued in 2012 amid protest from Argentina, other Member States and regional organizations. According to information received, in March 2012, Argentina announced the implementation of a legal action plan against unlawful hydrocarbon exploration and exploitation activities on the Argentine continental shelf. As part of the plan, warning and risk-assumption letters were sent to companies directly or indirectly involved in those activities. Correspondence was reportedly also sent to the New York and London stock exchanges providing information on the companies involved. Furthermore, in 2012, the Energy Secretariat of Argentina declared five oil companies to be in violation of Argentine law, opening the way for civil and criminal proceedings. For its part, the administering Power strongly supports the right of the Islanders to develop their natural resources for their own economic benefit as an integral part of their right of self-determination, which is expressly contained in the International Covenant on Civil and Political Rights, and maintains that all hydrocarbon activities on the continental shelf of the Islands are regulated by legislation in strict accordance with the United Nations Convention on the Law of the Sea.

V. Social conditions

A. General

23. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms and other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, have been extended to the Falkland Islands (Malvinas) by the administering Power.

24. For its part, Argentina has consistently rejected the territorial application by the United Kingdom of the various international instruments mentioned above, in addition to the designation of the Territory as an overseas territory of the United Kingdom or any other similar designation.

B. Public health

25. According to the administering Power, the general state of public health in the Territory is good. Medical and dental treatment is free to all residents under a health agreement.

C. Social security and welfare

26. According to the administering Power, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and

employees between the ages of 17 and 64. A system of social welfare grants and pensions is in place to address cases of hardship and disability.

D. Education

27. Education in the Territory is free and compulsory for all children between the ages of 5 and 16, with access to preschool (nursery) education from the age of 4. In 2012, approximately 420 schoolchildren were registered.

28. According to information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equality of access to the Argentine public education system. Additional information on the subject is contained in the 2012 report of the Secretary-General on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (A/67/74, section II.B).

VI. Mine clearance and related matters

29. Under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, known also as the Ottawa Convention, States parties are obliged to clear anti-personnel mines in mined areas within 10 years of the Convention's entry into force, unless an extension is granted under the Convention.

30. In November 2008, the Ninth Meeting of States Parties to the Ottawa Convention granted the United Kingdom an extension until 1 March 2019. The United Kingdom proceeded with the clearance of four mined areas in the Territory. According to the administering Power, the four-site clearance programme was completed in June 2010. A three-month follow-up phase of land release was conducted in 2012. Further clearance activity is expected to continue in 2013.

31. As previously reported, in December 2009, the Second Review Conference of the Ottawa Convention granted the request of Argentina for an extension until 1 January 2020. At the Twelfth Meeting of States Parties to the Ottawa Convention, held in Geneva from 3 to 7 December 2012, Argentina stated that mine-clearing planning would be developed in detail and implemented as soon as it exercised control over the areas in question, subject to a sovereignty dispute, or when both Argentina and the United Kingdom reached agreement over making progress in such planning.

VII. Participation in international organizations and arrangements

32. According to information provided by the administering Power, the Government of the Falkland Islands (Malvinas) attends various Commonwealth forums and is a member of the United Kingdom Overseas Territories Association and the South Atlantic Territories Cooperation Forum. Representatives of the Government also participate as members of the United Kingdom delegation in meetings on matters affecting their interests.

VIII. Consideration by intergovernmental organizations and forums

33. During meetings held in 2012 and early 2013, intergovernmental entities, including regional and subregional organizations, such as the Caribbean Community (Paramaribo, 8 and 9 March 2012), UNASUR (Asunción, 17 March 2012; Bogotá, 11 June 2012; and Lima, 30 November 2012), the Group of 77 and China (Doha, 21 April 2012, and New York, 28 September 2012), the General Assembly of the Organization of American States (Cochabamba, Plurinational State of Bolivia, 3-5 June 2012), MERCOSUR (Mendoza, Argentina, 28 and 29 June 2012, and Brasilia, 6 December 2012), the third South American and Arab Countries Summit (Lima, 1 and 2 October 2012), the twenty-second Ibero-American Summit of Heads of State and Government (Cádiz, Spain, 16 and 17 November 2012), the seventh ministerial meeting of the States members of the zone of peace and cooperation of the South Atlantic (Montevideo, 15 and 16 January 2013) and the first Summit of the Community of Latin American and Caribbean States (CELAC) (Santiago, 27 and 28 January 2013) addressed the question of the Falkland Islands (Malvinas) and, among other things, reaffirmed the need for Argentina and the United Kingdom to resume negotiations to find a peaceful solution to the dispute. Most of those organizations rejected the aforementioned hydrocarbon-related and military-related activities of the United Kingdom. For its part, the Government of the United Kingdom continues to reject any suggestion that hydrocarbon exploration amounts to unilateral action on its part and is being carried out in contravention of General Assembly resolution 31/49. It strongly supports the Islanders in developing their own economy and future, including their decision to exploit their natural resources.

34. Furthermore, some of the above-mentioned forums, including the Ibero-American Summit, CELAC and UNASUR, requested the Secretary-General to renew his good offices on the question and keep them informed. For its part, in January 2013, CELAC also reaffirmed the effectiveness of the historical heritage of CELAC, comprising the declarations, special communiqués and other decision-making instruments adopted during the processes of the Rio Group and the Summit of Latin America and the Caribbean on Integration and Development. Upon the 180th anniversary of what it termed "the occupation by the United Kingdom of Great Britain and Northern Ireland of the Malvinas Islands", it recalled that regional support for the Argentine claim "towards such occupation of these territories" was included in that heritage.

35. As previously reported, in 2011-2012, CELAC and UNASUR sent letters on the dispute to the Secretary-General. In April 2012, in a meeting with the Secretary-General of UNASUR, the Secretary-General acknowledged the strong regional support for the issue, reiterating that his good offices to resolve the dispute remained available if both parties agreed to engage. He reiterated that offer in June 2012 in response to the correspondence received from both regional entities.

36. According to the administering Power, the United Kingdom is not a member of the aforementioned organizations and has not been represented at any of the aforementioned meetings, with the exception of that of the Organization of American States, with which the United Kingdom has observer status. Exercising its right of reply, the United Kingdom responded to a letter from Argentina addressed to the Secretary-General that transmitted in an annex the "special communiqué on the question of the Malvinas Islands" adopted at the above-mentioned Ibero-American

Summit (A/67/726), reiterating its position on allegations of militarizing the South Atlantic and alleged breaches of resolution 31/49 (see A/67/754).

IX. Future status of the Territory

A. Position of administering Power

37. According to information provided by the administering Power, in a speech given at the Honourable Society of Lincoln's Inn, London, on 14 June 2012, the Prime Minister of the United Kingdom, David Cameron, reiterated the commitment of the United Kingdom to the Islanders. He noted, among other things, that, when it came to the sovereignty of the Territory, there would be absolutely no negotiation. In his view, the issue was about the Islanders determining their own future. He stated that the United Kingdom had no aggressive intentions towards Argentina, and accusations of militarization and nuclear threats were considered hyperbole and propaganda.

38. Furthermore, in a message to the Islanders on the thirtieth anniversary of the end of the conflict, in June 2012, the then Minister of State for the Foreign and Commonwealth Office, Jeremy Browne, who was visiting the Territory, said:

> In Britain the right to self-determination is considered sacrosanct. It is a principle that people instinctively understand and support. But being here this week has vividly and practically demonstrated why this right is so revered ... As long as you wish to maintain your links to Britain we will protect your right to do so ... The status of your home should be determined by no one other than you. That is the principle of self-determination, admired and desired by freedom-loving people all around the world.

39. In addition, in a message to the Islanders broadcast on 21 December 2012, the Prime Minister reiterated that the Government of the United Kingdom would not stand by and allow the human rights of the Islanders to be ignored. He stated that there was no justification for any country to try to deny the Islanders the right to democracy and self-determination, nor to make attempts to isolate the island community, block its trade and undermine its legitimate fisheries, hydrocarbons and tourism industries. Furthermore, he said that he valued the relationship of the United Kingdom with the Territory and hoped that it would long continue. He reiterated that the final outcome of the referendum was neither his decision nor that of Argentina, but that of the Islanders alone. He reaffirmed that the referendum was true democracy in action and an opportunity to show the international community what the Islanders wanted from their future and to show it definitively.

40. In exercise of the right of reply to the remarks made by the President of Argentina in the General Assembly on 26 September 2012, the United Kingdom, among other things, stated that it attached great importance to the principle of self-determination as set out in Article 1 (2) of the Charter and article 1 of the International Covenant on Civil and Political Rights. In the view of the administering Power, there could be no negotiations on the sovereignty of the Islands unless and until such time as the Islanders so wished (see A/67/483). In exercise of the right of reply to a letter addressed by the President of Argentina to the Prime Minister of the United Kingdom, which was published in a number of newspapers in the United

Kingdom on 3 January 2013, the Permanent Representative of the United Kingdom to the United Nations wrote to the Secretary-General on 17 January 2013 (see A/67/703). He reiterated that the United Kingdom had no doubt about its sovereignty over the Islands; the historical and legal facts were clear. He stated that the claim by Argentina to the Islands, which it based on the principle of disruption to its territorial integrity, was without foundation, as the Islands had never legitimately been administered by, or formed part of, the sovereign territory of Argentina.

41. Further responses in exercise of the right of reply included a communication dated 18 October 2012 regarding missile exercises in the Territory. The United Kingdom, among other things, reiterated that exercises involving the firing of short-range air defence missiles that took place in October 2012 were not new. Those exercises were routine, initiated since the conflict in 1982, and did not represent any change or increase in the defence posture of the United Kingdom in the South Atlantic. Furthermore, the United Kingdom denied that any reinforcement of military assets in the region had taken place (see A/67/544).

B. Position of the Government of Argentina

42. As reflected in the official records of the sixty-seventh session of the General Assembly (A/67/PV.7), the President of Argentina, Cristina Fernández de Kirchner, in her address to the General Assembly on 25 September 2012, among other things, stated that in June 2012 she had appeared before the Committee on Decolonization in New York to present the request of Argentina for compliance with resolution 2065 (XX), which urged the United Kingdom and Argentina to undertake a dialogue on the dispute. She said that January 2013 would mark 180 years since the United Kingdom had "illegally usurped our Malvinas Islands". Supported by many resolutions of various organizations such as the Organization of American States and other multilateral organizations such as the Rio Group, Argentina was simply asking the United Kingdom to sit down to comply with the relevant United Nations resolutions and to undertake a dialogue on the sovereignty dispute, as well as to demilitarize the South Atlantic so that it would become a region of peace in South America, without regard to ethnic, religious or any other differences that could lead to clashes between the two countries, she said. Reiterating the appeal, she pointed out that she perceived a clear double standard: the permanent members of the Security Council had the right to violate any and every requirement of the United Nations, while everyone else had to accept without demur any and every Council resolution. She said that doing away with the last vestiges of colonialism had become one of the great contributions of the United Nations when it created the Decolonization Committee in 1961.

43. In a letter to the Prime Minister of the United Kingdom on 3 January 2013, on the occasion of the 180th anniversary of what she termed a "blatant exercise of nineteenth-century colonialism" when "Argentina was forcibly dispossessed of the Malvinas Islands", the President of Argentina recalled that Argentines on the Islands had been expelled by the Royal Navy and that the United Kingdom had subsequently begun a process of importing settlers. Since then, the United Kingdom had refused to return the Islands to Argentina and restore its territorial integrity. She further stated that the question was a cause supported by Latin America and the vast majority of the world's peoples and Governments that rejected colonialism, recalling resolution 2065 (XX), adopted by the General Assembly in 1965 "with no

votes against (not even by the United Kingdom)", which considered the question "a case of colonialism" and invited the two countries concerned to negotiate a solution to the sovereignty dispute. That resolution was followed by many others in the same vein. Lastly, she reiterated the request to give effect to the relevant resolutions of the United Nations and resume dialogue (see A/67/688).

44. In letters addressed to the Secretary-General in August and October 2012, Argentina condemned the unilateral military activities of the United Kingdom in the South Atlantic, which it said could be understood only as a "further hostile act and a provocation directed by a military power against a peaceful region". Among other things, Argentina stated that the situation in the South Atlantic had deteriorated as a result of constant British unilateral actions and recalled the presentation submitted to the Secretary-General in February 2012 alerting the international community about the "United Kingdom's increasing militarization of the South Atlantic". Furthermore, Argentina regretted and strongly denounced the "hostile attitude" of the United Kingdom, which constituted "a persistent provocation" contributing to the consolidation and growth of its military presence in the South Atlantic, which had been the subject of unanimous repudiation by MERCOSUR, UNASUR and the third South American and Arab Countries Summit (see A/66/884 and A/67/513).

45. Additional information on the position of the Government of Argentina can be found in section X.A below.

X. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

46. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 4th and 5th meetings, on 14 and 15 June 2012, as reflected in documents A/AC.109/2012/SR.4 and 5. At its 4th meeting, the Special Committee decided to accede to the requests of the delegations of Argentina, Brazil, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Paraguay, Peru and Uruguay to participate in the Committee's consideration of the item.

47. At the 4th meeting, during the hearing of petitioners and in line with usual practice, the Special Committee heard statements by Roger Edwards and Mike Summers from the Legislative Assembly of the Falkland Islands (Malvinas). Furthermore, Alejandro Betts and Marcelo Luis Vernet made statements to the Special Committee (see A/AC.109/2012/SR.4).

48. At the same meeting, the representative of Chile, on behalf of Bolivia (Plurinational State of), Chile, Cuba, Ecuador, Nicaragua and Venezuela (Bolivarian Republic of), introduced draft resolution A/AC.109/2012/L.6, which the Special Committee adopted without a vote. In the resolution, the Special Committee reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the negotiated settlement of the dispute, in accordance with the relevant General Assembly resolutions.

49. The President of Argentina made a statement at the 4th meeting of the Special Committee, on 14 June 2012. She stated, among other things, that she had not come

before the Special Committee because of the events that had taken place 30 years earlier, but because of the events of 180 years earlier.

50. She said that General Assembly resolution 2065 (XX) of 1965 had been the first of 11 resolutions on the dispute adopted by the Assembly, while 29 had been adopted by the Special Committee and countless statements had been issued by UNASUR, MERCOSUR, CELAC and the Central American Integration System, as well as by the African States and the Arab States. They had all been to no avail, given that, in her view, the United Kingdom had taken advantage of its privileged position as a permanent member of the Security Council. The lack of respect for United Nations resolutions shown by the United Kingdom went against international efforts to achieve a world that was more just, secure, equitable and egalitarian, she continued.

51. She said that negotiations between Argentina and the United Kingdom had taken place in 1974, in the utmost secrecy. Argentina had sufficient historical, geographical and political arguments to make its case, even without mentioning the agricultural and oil resources that were, she said, being plundered in a zone of peace.

52. She said that the countries of the region supported Argentina, not only out of solidarity, but also in self-defence: the South Atlantic was a demilitarized zone. Argentina, a leader in human rights, was also a leader in nuclear non-proliferation, despite being the country most advanced in nuclear science in the region. Furthermore, the defence of South America's natural resources was a regional rather than a national issue.

53. She reiterated that Argentina was open to resuming negotiations and, although the 1974 talks had been interrupted, they had demonstrated that the United Kingdom recognized the existence of a sovereignty dispute. For its part, Argentina would continue to comply strictly with United Nations resolutions. Negotiations between the two countries would unlock many issues and result in partnerships that could be beneficial for all of South America and the international community. She would not ask anyone to say that Argentina was right or that the Malvinas were Argentine, but was merely requesting dialogue, she concluded.

54. At the 4th and 5th meetings of the Special Committee, the representatives of Bolivia (Plurinational State of), Brazil, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Ecuador, El Salvador, Guatemala, Indonesia, Nicaragua, Paraguay (in his capacity as President pro tempore of UNASUR), Papua New Guinea, Peru, the Russian Federation, Sierra Leone, the Syrian Arab Republic, Uruguay and Venezuela (Bolivarian Republic of) also made statements on the question of the Falkland Islands (Malvinas).

B. Special Political and Decolonization Committee (Fourth Committee)

55. On 8, 11, 12 and 15 October 2012, during the debate on decolonization issues in the Special Political and Decolonization Committee (Fourth Committee) of the sixty-seventh session of the General Assembly, the delegations of Argentina, Bolivia (Plurinational State of), Brazil, Chile, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Nicaragua, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of) addressed the question of the Falkland Islands (Malvinas), as reflected in A/C.4/67/SR.2 and 5-7.

56. On 8 October, the representative of Brazil, speaking on behalf of the States members of MERCOSUR and the associated States Bolivia (Plurinational State of), Chile, Colombia, Ecuador and Peru, among other things, expressed support for the legitimate rights of Argentina in the sovereignty dispute. Unilateral measures were not compatible with the relevant United Nations resolutions, and it was in the interests of the region to reach a solution to the sovereignty dispute between Argentina and the United Kingdom. In particular, the military presence of the United Kingdom in the region and its unilateral exploration and extraction activities there were not conducive to a peaceful solution. MERCOSUR and the associated States had undertaken to adopt measures aimed at preventing vessels flying the "illegal flag of the Malvinas Islands" from entering their ports, and to exchange information on vessels bound for the Islands with cargo intended for illegal drilling operations on the Argentine continental shelf.

57. He continued that, in 1833, the United Kingdom had expelled the Argentine population of the Islands and had prevented them from returning ever since, replacing them with its own nationals. The current inhabitants were thus not a people subjected to alien subjugation, domination and exploitation as defined in General Assembly resolution 1514 (XV). The Islands were a colonial territory, but without a colonial population, and their situation had been deemed by the United Nations to be a special and particular case. An early resumption of negotiations between the two parties, in accordance with the repeatedly expressed wish of the international community, and encouraged by the good offices mission of the Secretary-General, would be desirable.

58. The representative of Chile, speaking on behalf of CELAC, reiterated its support for the legitimate rights of Argentina in the sovereignty dispute with the United Kingdom. A peaceful and definitive solution that safeguarded the principle of territorial integrity, in accordance with United Nations resolutions and those of the Organization of American States, among others, was essential. Meanwhile, the United Kingdom should refrain from hydrocarbon exploration and drilling operations and military activities on the continental shelf of Argentina, in accordance with General Assembly resolution 31/49. The good offices mission of the Secretary-General would continue to be useful in promoting a peaceful solution to the dispute.

59. The representative of Peru, speaking on behalf of UNASUR, said that it supported the legitimate sovereign rights of Argentina. UNASUR recognized that it was a special and particular decolonization case and, as a sovereignty dispute, urged the Governments of Argentina and the United Kingdom to resume bilateral negotiations. The States members of UNASUR had agreed to monitor ships operating in the region, to close their ports to ships flying the "illegal flag of the Malvinas Islands" and to inform the Government of Argentina about vessels serving illegal drilling operations on the Argentine continental shelf. Furthermore, they had sought to avert the military exercises eventually carried out in the area by the Government of the United Kingdom. In their view, such actions altered the situation unilaterally.

60. At the same meeting, the Deputy Permanent Representative of Argentina stated, among other things, that his Government fully supported the work of the Special Committee as the central body directing the process of decolonization pursuant to the two guiding principles established by the General Assembly in resolution 1514 (XV), namely the right of self-determination and territorial integrity. It was incumbent upon administering Powers to cooperate with the Special

Committee. In the twenty-first century, no people could be subjected to alien subjugation, domination and exploitation, for they were crimes against human rights, the principles of the Charter and world peace.

61. He said that the principle of self-determination could not, however, be distorted to justify an illegal occupation that had continued since 1833 in violation of the territorial integrity of Argentina. In his view, the sovereignty dispute had been recognized by the General Assembly in successive resolutions as a special and particular colonial situation that should be solved through negotiations between the only two parties to the dispute, taking the interest of the inhabitants into account. Accordingly, a referendum would, he said, be illegal, spurious and tautological.

62. He said that, at the same time, the United Kingdom was illegally exploring and exploiting the renewable and non-renewable resources of the disputed archipelagos and surrounding maritime areas, contrary to the provisions of General Assembly resolution 31/49, which called upon both parties to refrain from introducing unilateral modifications to the situation during the settlement process. In addition, disregarding maritime norms and the regional policy of peaceful settlement of disputes, the United Kingdom was conducting ongoing military and missile-launching exercises there. Its actions had drawn protests not only from Argentina but also from the major regional organizations.

63. Argentina had consistently demonstrated its willingness to negotiate a peaceful solution to the sovereignty dispute, he concluded, but the United Kingdom, in effect taking advantage of its privileged position as a permanent member of the Security Council while ignoring the special responsibilities that such a position entailed, had refused to assume its international obligations.

64. Speaking in exercise of the right of reply, the representatives of Argentina and of the United Kingdom reiterated their Governments' respective positions a number of times during the deliberations of the Fourth Committee (see A/C.4/67/SR.2 and 5-7).

C. Action taken by the General Assembly

65. By resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present working paper, no such notification by a Member State to the Assembly had been received.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter as well as information provided by the Government of Spain and that available in public sources, including those of the territorial Government. Information was transmitted by the administering Power on 21 December 2012. Further details are contained in previous working papers posted on the United Nations website http://www.un.org/en/decolonization/workingpapers.shtml.

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I. General

1. Gibraltar is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus approximately 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west, and the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 square kilometres; according to Spain, which claims sovereignty over the Territory, it is 4.8 square kilometres. Issues relating to the water off Gibraltar continue to be a subject of contention.

2. According to the administering Power, in 2011 the population in the Territory was 29,752. The currency of the Territory is the Gibraltar pound, circulating at par with the pound sterling. The Territory's main trading and commercial transactions are with European countries, the United States of America and North African countries.

3. The basis of the current relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory. According to the administering Power, the British Overseas Territories Act 2002 provides for the grant of the right to British citizenship to "British Overseas Territory citizens".

II. Constitutional, legal and political issues

4. Under the Constitution Order 2006, the Governor of Gibraltar, Vice-Admiral Sir Adrian James Johns, has represented the British Crown in the Territory since October 2009. The Governor is responsible for the conduct of external affairs, defence, internal security (including the police, in conjunction with the Police Authority for Gibraltar) and for certain appointments to public office as conferred on him by the Constitution. Following an election, the Governor, at his own discretion, appoints as Chief Minister the elected member of the Parliament who, in his judgement, is most likely to command the greatest measure of confidence of his peers. Other ministers are appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Parliament.

5. According to the 2006 Constitution, the Governor, acting in accordance with the advice of the Chief Minister, must dissolve the unicameral 17-member Parliament in preparation for a general election. In any case, the Governor must dissolve the Parliament four years from the date of its first meeting after a general election unless Parliament has already been dissolved. Under the Gibraltar Constitution, the British Crown retains full power to make laws from time to time for the peace, order and good government of Gibraltar. Included in those powers are laws amending or revoking the Constitution.

6. According to territorial Government figures, the Gibraltar Socialist Labour Party/Gibraltar Liberal Party alliance headed by Fabian Picardo won the general elections held on 8 December 2011 with approximately 49 per cent of the votes, against 47 per cent for the Gibraltar Social Democrats. The next election is expected to take place in 2015.

7. Gibraltar has a Supreme Court allowing for appeals to a Court of Appeal and subsequently to Her Majesty in Council, acting on the advice of the Privy Council. The 2006 Constitution provides for the establishment of a Judicial Service Commission, which was set up under the Judicial Service Act of 2007 (Act No. 2007-26). The Commission has executive powers, subject only to an exceptional power of veto by the Governor, to advise the Governor in respect of certain matters, such as appointments to the offices of the Chief Justice and other members of the judiciary. The Governor, with the prior approval of a Secretary of State, may disregard the advice of the Commission in any case where he judges that compliance with that advice would prejudice the British Crown's service. The Constitution also makes provisions regarding Crown lands in Gibraltar.

8. In June 2004, after a 10-year campaign to exercise the right to vote in European elections, Gibraltarians took part in European parliamentary elections, based on the fact that they were considered by the administering Power, for electoral purposes, to be part of the south-west England region.

9. The Government of Spain maintains the position that the 2006 Constitution does not affect the international capacity of Gibraltar; that its adoption was a reform of the colonial regime, which remains unaltered; and that it did not affect in any way the pending decolonization process of Gibraltar, to which the principle of self-determination does not apply.

III. Budget

10. According to information provided by the administering Power, as of March 2012 the revenue of the territorial Government was £452 million and its expenditures stood at £333 million. The territorial Government approved £35.9 million in expenditures on capital projects for 2012/2013, to be funded through the Improvement and Development Fund. The highest possible rate of effective personal tax in Gibraltar was 24.9 per cent, with the company tax rate at 10 per cent.

11. According to media reports, information provided by the Gibraltar Financial Centre indicated that by early 2013 the Territory had signed 26 tax information exchange agreements.

IV. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. With the downsizing of the military base since the 1980s, the economy has increasingly focused on tourism and the provision of financial services, including banking, insurance, shipping and portfolio management, as well as online gaming.

13. Prior to 1980, the economy was largely dependent on expenditures made by the Ministry of Defence of the United Kingdom. The Gibraltar operating base includes military and civilian personnel. After the territorial Government expressed concern that the Ministry of Defence had to reduce the amount of work that it outsourced to local construction companies, an agreement was reached between the territorial Government and the Ministry of Defence that the base could not reduce

its workforce below an agreed level except by voluntary redundancies. In 2011, the Ministry of Defence appointed a Special Representative to Gibraltar to work on a range of issues connected with the continued presence of the base.

14. According to information provided by the administering Power, in 2010/2011, Gibraltar's gross domestic product (GDP) grew to £1,050.54 million, with an estimated GDP per capita of £35,589.

B. Trade

15. According to the administering Power, in 2011, the Territory's total imports amounted to approximately £2.3 billion. Around 27 per cent of non-fuel imports originate from the United Kingdom. Other sources of non-fuel imports include Germany, the Netherlands and Spain. The Territory's total exports for 2011 were approximately £1.9 billion. Exports were mainly re-exports of petroleum and petroleum products supplied to shipping.

C. Banking and financial services

16. Gibraltar has a well-developed financial sector, which, as previously reported, is regulated by the Financial Services Commission. The Gibraltar Finance Centre is charged with the marketing and promotion of financial services. Twelve banks operate in Gibraltar.

D. Transportation, communications and utilities

17. Enhancements to road transportation arrangements in and out of Gibraltar were agreed upon at talks held in Córdoba, Spain, in 2006. They included the introduction at the fence/frontier of lanes in both directions, and red and green channels for both people and vehicles. Customs and police checks remain necessary, since Gibraltar does not belong to the European Union Customs Union. Moreover, the United Kingdom (and thus Gibraltar) does not belong to the Schengen area for external borders control purposes.

18. The United Kingdom continues to be responsible for all international obligations relating to aviation safety and security in respect of Gibraltar Airport, a military airfield available for civilian flights, with the Ministry of Defence retaining ownership of and operational responsibility for the military aviation aspects of the airfield. According to the administering Power, legislation enacted by the Gibraltar Parliament provides for civil aviation safety and security. In July 2010, the British (National Air Traffic Services) and Spanish (Aeropuertos Españoles y Navegación Aérea) air control service providers reached agreement on technical procedures helping to provide safe passage for aircraft using Gibraltar Airport. Spain holds the position that the occupation by the United Kingdom of the isthmus on which the airfield was built is illegal and that it does not comply with public international law as it is not included among the areas ceded by the Treaty of Utrecht. For its part, the United Kingdom is confident its sovereignty over the whole of the territory of Gibraltar based on the Treaty of Utrecht and continuous possession over a long period of time.

19. The Strait of Gibraltar is a principal water route; the Territory's port facilities are used by many long-distance liners and cargo ships. According to the United Kingdom, it applies a 3-mile area for British Gibraltar Territorial Waters (or less where the median line with other territorial waters applies), in line with the United Nations Convention on the Law of the Sea. According to Spain, it exerts its sovereign rights and jurisdiction over its territorial waters, including all maritime areas around Gibraltar (with the only exception being its port facilities).

E. Tourism

20. According to the United Kingdom, in 2011 the tourism sector recorded an increase to approximately 11.9 million visitors. Arrivals by land comprise mainly day visitors arriving from Spain; arrivals by air are primarily tourists from the United Kingdom; arrivals by sea include visitors arriving by ferry from Morocco and on day trips from cruise ships.

V. Social conditions

A. Labour

21. According to the administering Power, as at October 2011 there were 22,247 jobs in the Territory, including, from the largest industrial sectors, some 3,400 jobs in building and construction, 3,100 in banking and finance, 2,700 in gambling and betting and 2,300 in the retail trade. The unemployment rate stood at 4.9 per cent of the work force.

B. Social security and welfare

22. The social security and welfare sectors in Gibraltar continue to be governed by various social security acts, as mentioned in previous working papers, covering areas such as employment injuries insurance, maternity grants and allowances and unemployment benefits.

C. Public health

23. The Gibraltar Health Authority, a department of the territorial Government, is responsible for providing health care in the Territory, which, as at 2011, had an infant mortality rate of nil. According to the territorial Government, it decided to create new initiatives, in particular to deal with the needs of the elderly citizens, increasing the number of care agency beds available and working to ensure the opening of two day care centres for elderly persons in 2013.

D. Education

24. Education in Gibraltar is free and compulsory for children between the ages of 4 and 15. The language of instruction is English. Public education comprises 11 primary and two secondary schools, as well as the Gibraltar College of Further

Education and the Vocational Training Centre, serving over 5,000 students. The Territory's literacy rate is assumed to be nearly 100 per cent.

25. Government expenditure on education during the year ending in March 2012 was approximately £30 million, and expenditure on improving school buildings was in the region of almost £1.5 million. Students who obtain a place at a university in the United Kingdom are entitled to Gibraltar Government scholarships. According to the territorial government, during 2011/2012, 764 students attended universities in the United Kingdom.

E. Crime and public safety

26. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police, in conjunction with the Gibraltar Police Authority. The Governor has overall, ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and for the policing aspects of national security, including internal security.

27. The 2011/2012 annual report of the Gibraltar Police Authority indicates that the figures for overall recorded crime dropped by 13.5 per cent for the period under review to 4,546. An overall 4 per cent drop in serious crime such as serious fraud and deception, firearms offences, criminal damage and general drug offences was also reported.

28. The annual policing plan for 2012/2013 refocused on modernized policing, with a greater emphasis on neighbourhood and high-visibility policing and the prevention of crime through education and other means.

F. Human rights

29. The following major international human rights instruments apply in Gibraltar: the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Constitution of the Territory includes a chapter on the fundamental rights and freedoms of the individual.

30. According to the "Human Rights and Democracy: The 2011 Foreign & Commonwealth Office Report" issued in 2012, the protection and promotion of human rights in each territory is primarily the responsibility of the territorial government while the Government of the United Kingdom is ultimately responsible for ensuring that territories fulfil their obligations arising from international human rights treaties that have been extended to them.

VI. Forum for Dialogue on Gibraltar

31. Negotiations between the United Kingdom and Spain on the subject of Gibraltar led in 2004 to the establishment of the Forum for Dialogue on Gibraltar. In 2006 the first ministerial meeting of the Forum agreed on a package of issues,

known as the Córdoba Statements. In 2008, in London, the second ministerial meeting agreed on six additional areas of cooperation, namely, environmental issues; financial services and taxation; judicial, customs and police cooperation; education; maritime communications and safety; and visa-related issues. In 2009, the third ministerial meeting, held in Gibraltar, agreed on a detailed framework for negotiations on the six areas. In 2010, the Forum met at senior official level in Gibraltar to discuss progress made by working groups in the six areas. The ministerial meeting to be held in 2010 did not take place.

32. Since 2010, no meetings have been held. In 2012, the United Kingdom expressed the desire to continue with the Forum for Dialogue and, as an alternative, offered an informal, ad hoc dialogue involving, as appropriate, all relevant parties to the different issues under discussion. While accepting that the setting-up of ad hoc groups involving all relevant parties might be an appropriate manner to deal with some specific issues under discussion, Spain expressed the desire to replace the Forum for Dialogue with a new permanent mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the campo de Gibraltar and Gibraltar would be represented.

VII. Future status of the Territory

A. Position of the administering Power

33. In a statement in exercise of the right of reply before the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly, on 9 October 2012, the representative of the administering Power, inter alia, recalled that the United Kingdom had sovereignty over Gibraltar and the territorial waters surrounding it, and that, as a separate Territory, Gibraltar enjoyed the individual and collective rights accorded by the Charter of the United Nations. The 2006 Constitution of Gibraltar provided for a mature relationship, rather than one based on colonialism, between Gibraltar and the United Kingdom. Unfortunately, the outdated de-listing criteria of the Special Committee on decolonization failed to recognize the mutually acceptable relationship between the United Kingdom and Gibraltar. It was his Government's view that the principle of territorial integrity had never been applicable to the decolonization of Gibraltar. Gibraltar's right of self-determination was not constrained by the Treaty of Utrecht except insofar as article X gave Spain the right of refusal should the United Kingdom renounce sovereignty. While noting that Gibraltar disagreed that such a constraint existed, the Government held that independence would be an option only with Spanish consent. Gibraltar's Constitution did not in any way diminish British sovereignty and the United Kingdom retained full international responsibility for Gibraltar. The United Kingdom reaffirmed its long-standing commitment that it would never allow the people of Gibraltar to pass under the sovereignty of another State against their wishes, and that it would not enter into sovereignty negotiations which they opposed. The British Government enjoyed strong relations with Spain and would continue to work constructively with it on all Gibraltar-related issues.

34. The speaker went on to state that, the United Kingdom and Gibraltar regretted that Spain had "withdrawn from the constructive trilateral Forum for Dialogue on Gibraltar, which had fostered improved relations and addressed practical ways of

building cooperation for the benefit of people on both sides of the frontier". The Forum functioned without prejudice to the respective positions of the United Kingdom and Spain on sovereignty, on which the United Nations did not take a view. His Government hoped that the Forum could resume at the earliest opportunity, and stood ready to explore new means of advancing dialogue that fully reflected the interests, rights and responsibilities of Gibraltar (see A/C.4/67/SR.3).

B. Position of the territorial Government

35. On 9 October 2012, addressing the Fourth Committee, the Chief Minister of Gibraltar said, inter alia, that neither the United Kingdom nor the people of Gibraltar would allow the bilateral negotiations which Spain wanted restarted regarding the sovereignty of the Territory to go ahead. The Chief Minister emphasized that the Committee should remove Gibraltar from the list of Non-Self-Governing Territories owing to the Territory's modernized relationship with the United Kingdom and in keeping with the option it had chosen under General Assembly resolution 2625 (XXV). Gibraltar intended to remain with the British Crown in perpetuity. Over the previous 45 years, the people of Gibraltar had expressed their views in referendums and had sent their representatives to the United Nations, where Spain's attempts at colonization had been rejected.

36. Furthermore, it was the opinion of the Chief Minister that centuries-old treaties like the Treaty of Utrecht, overtaken by other and more modern conventions, and now defunct, could not be used to justify incursions into British territorial waters around Gibraltar. Those continuing "acts of aggression by a supposed ally and partner" posed the risk of human injury. In the view of the speaker, Spain had accepted the established limits of those territorial waters since the 1960s, but was currently "illegally asserting control over Gibraltarian waters".

37. The Chief Minister concluded by saying that despite such intolerable acts, Gibraltar remained committed to the trilateral Forum for Dialogue "now repudiated by Spain", and still sought positive engagement with its Government and people. In the current economic climate, Gibraltar and Spain should collaborate to promote employment and the development of the region (see A/C.4/67/SR.3).

C. Position of the Government of Spain

38. On 9 October 2012, the Permanent Representative of Spain made a statement before the Fourth Committee stating, inter alia, that the principle of territorial integrity was essential in the case of Gibraltar, as the General Assembly had made clear in its relevant resolutions and decisions. For Spain, the solution was the restitution of both the Territory transferred from Spain under the Treaty of Utrecht and the land later "occupied illegally" by the United Kingdom. The interests of the people of Gibraltar had of course to be taken into account and, in the negotiations with Spain the United Kingdom was responsible for those interests as the administering Power.

39. The speaker went on to say that, in accordance with the Special Committee's case-by-case approach to decolonization, Spain supported the principle of self-determination where applicable, but that in his view the principle did not apply to Gibraltar. It was intended for populations of colonized territories and not for settlers

imposed by an occupying Power to the detriment of the original inhabitants, whose rights were defended by the United Nations. International law underscored the validity of the Treaty of Utrecht, which, as the United Kingdom itself had repeatedly recalled, ruled out independence without Spain's consent. Spain was certain that a political solution, based on bilateral negotiations, that took the special circumstances of Gibraltar into account, would settle the issue. The speaker reiterated his Government's recent call for bilateral talks on the decolonization of Gibraltar to resume as soon as possible, pursuant to the framework of the commitments made in the 1984 Brussels Declaration.

40. In exercise of the right of reply, the delegation of Spain recalled that the position of Spain on the waters surrounding Gibraltar has not changed. Spain does not recognize British sovereignty or jurisdiction over areas other than those included in article X of the Treaty of Utrecht. Therefore, in the delegation's view, Gibraltar does not have territorial waters.

D. Negotiations between the United Kingdom and Spain

41. Within the framework of the Brussels Process, which is separate from the Forum for Dialogue, no bilateral negotiations were held in 2012. The Government of Spain continued to demand the renewal of bilateral sovereignty talks with the Government of the United Kingdom, while the United Kingdom made it clear that no sovereignty-related talks would be entered into without the consent of Gibraltar.

E. Discussions between the United Kingdom and Gibraltar

42. The Governments of the United Kingdom and Gibraltar have both recognized that the current Constitution provides for a modern and mature constitutional relationship between the two sides, one which is not based on colonialism.

43. As reflected in previous working papers, both the Government of the United Kingdom and the territorial Government believe that the de-listing and decolonization criteria of the United Nations are anachronistic, and, at the same time, they recognize that under Article 73 *e* of the Charter of the United Nations, the United Kingdom is obliged to continue to submit annual reports until such time as the General Assembly votes in favour of the removal of a Territory from its list of Non-Self-Governing Territories.

VIII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

44. A representative of Spain attended the Pacific regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, held in Quito from 30 May to 1 June 2012, and made a statement, as did a representative of Gibraltar (see A/67/23).

45. The Special Committee, which discussed the question of Gibraltar in a meeting held on 15 June 2012, had before it the 2012 working paper prepared by the Secretariat concerning the Territory (A/AC.109/2012/14). As reflected in the summary record of the meeting (A/AC.109/2012/SR.5), statements were made by the representative of Spain and by the Chief Minister of Gibraltar. On the proposal of the Chair, the Committee decided to resume the consideration of the question at its next session and to transmit the relevant documentation to the General Assembly in order to facilitate the consideration of the question by the Fourth Committee.

B. Special Political and Decolonization Committee (Fourth Committee)

46. The Fourth Committee of the General Assembly considered the question of Gibraltar on 9 October 2012. As reflected in the summary record of the meeting (see A/C.4/67/SR.3), the Committee heard a statement by the Chief Minister of Gibraltar. At the same meeting, statements were made by the Permanent Representative of Spain and, in exercise of the right of reply, by the Deputy Permanent Representative of the United Kingdom, who referred to the statement made by the representative of Spain. At its meeting on 15 October 2012, the Fourth Committee adopted without a vote draft decision (A/C.4/67/L.5) on the question of Gibraltar, which was submitted by the Chair of the Decolonization Committee (see A/C.4/67/SR.7).

C. Action by the General Assembly

47. On 18 December 2012, the General Assembly, on the recommendation of the Fourth Committee, adopted, without a vote, decision 67/530 on the question of Gibraltar. The decision reads as follows:

> The General Assembly, recalling its decision 66/522 of 9 December 2011:
>
> (a) Urges the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland, while listening to the interests and aspirations of Gibraltar, to reach, in the spirit of the Brussels Declaration of 27 November 1984,[1] a definitive solution to the question of Gibraltar, in the light of relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;
>
> (b) Takes note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue on Gibraltar;
>
> (c) Takes note of the desire of Spain to replace the Forum with a new mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the Campo de Gibraltar and Gibraltar are represented.

[1] See A/39/732, annex.